

9 down menu and choose from various different sources.

10 And this is sort of an example of what the  
11 results page would look like. The information that you  
12 will be needing.

13 We are very excited about this. I hope that  
14 you guys share the excitement and hope this will be a  
15 great resource for you. This is another little screen  
16 shot here of browsing a particular record for a single  
17 state.

18 If you have any questions, comments anything  
19 that I can answer right now I would be happy to take  
20 questions.

21 MS. LYNN BAILEY: (Georgia) when do you  
22 anticipate that project will be available for the

□

13

1 public.

2 MS. THOMPSON-HODGKINS: I believe the tract  
3 that the contractor is on right now we should have this  
4 up by mid July. They are well into identifying all of  
5 the resources. There are quite a number of cases that  
6 they have summarized. But we try to ask them to do that  
7 on a priority bases, the newest cases first so that we  
8 can get that information out to you in that time frame.

9 BRAD CLARK: (California) will this be  
10 available to a regular EAC website? Will there be a be

11 a link to that legal resources.

12 MS. THOMPSON-HODGKINS: That is correct. There  
13 will be a link to Legal Resources Clearing House or  
14 Legal resources. You will be able to just go get that  
15 right off the EAC page.

16 The court Reporter has asked me to tell those  
17 who are speaking to identify yourselves so we will know  
18 who is speaking. Thank you so much for this opportunity  
19 to come and talk to you about this. I will be around  
20 for the next day and a half. So if any other questions  
21 come up with regard to Legal Resource Clearing House or  
22 in regard to anything else please do not hesitate to

□

14

1 come and find me.

2 MR. MARTINEZ: I think Julie actually makes a  
3 good point at the end. And that is our staff will be  
4 around for the next couple of days. The presentations  
5 that you're hearing today at lunch are going to be kind  
6 of rushed because we are trying to get you as much  
7 information as we can. And we are starting with this  
8 lunch hour. But after the lunch hour the presentations  
9 that you will have will be issue specific. You will not  
10 not have four in a one hour block of time. There will  
11 be a time when you will get a ten or fifteen minute  
12 presentation with about thirty to forty minutes to ask  
13 questions on a particular issue.

14               So these are the ones we thought we could do  
15 rather quickly. But still even so we encourage you to  
16 ask to ask questions even if it means we need to  
17 readjust our agenda this afternoon.

18               Okay. Our next presenter-- I am going to ask  
19 Karen Lynn-Dyson who is our research manager. Karen  
20 manages all of our research agenda. And Karen, why  
21 don't you come on up to the microphone if you don't  
22 mind. And Karen will introduce our next presenter who

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15

1 will give a very a quick, brief, presentation. This  
2 project is on the work that we are doing to redesign or  
3 to offer more user friendly designs for various  
4 products that our presenter will explain to you. Karen  
5 come on up.

6               MS. KAREN LYNN-DYSON: I just want to  
7 reiterate what Commission Martinez said in terms of my  
8 availability to everyone here over the next couple of  
9 days. Am the individual responsible for oversight for  
10 all of the agencies research works and projects. I look  
11 forward very much to hearing from you all, your  
12 concerns, you issues, things you would like to see us  
13 addressing or addressing in more detail.

14               We have with us today Rick Grafe who is the  
15 CEO of the American Institute of Graphic Art. This

16 project which the Elections Assistance Commission is  
17 contracted for is one that Commissioner Martinez  
18 indicated where we are trying to provide to you all a  
19 series of best practices on ballot design and on  
20 signage. And with these best practices and these  
21 exhibits, if you will, of possibilities for approaches  
22 to ballot design and polling place signage we will take

16

1 into consideration literacy, readability, usability  
2 alternate languages, braille, audio accessibility and  
3 ADA compliance.

4           The American Institute of Graphic Art is the  
5 professional association of design. It has some 17,000  
6 designers working in a variety of communication media.  
7 And they through their Design for Democracy which is  
8 their non profit affiliate can assist you all,  
9 government agencies, in finding national or local  
10 professional designers and researchers who can help you  
11 on a for hire basis to implement some of these designs.

12           So with that very brief introduction I am  
13 going to Mr. Grafe Korfe go ahead and describe to you  
14 all the work they have been doing for the EAC on this  
15 contract

16

17           DESIGN FOR DEMOCRACY

18 MR. RICK KORFE:

19 All right. Thank you Karen. Again I am Rick  
20 Grafe sic) I want to thank you, Karen and also  
21 Commissioner Martinez. And I think some of the comments  
22 that he made are so very critical to what we want to

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17

1 share with you. That is he talked about the importance  
2 of best practices; he talked about the importance of  
3 research; and he talked about how critical input is.  
4 And I think all of those are reflected in what we are  
5 trying to share with you today.

6 This is going to be very brief. And one of  
7 the reasons it is going to be brief is that this isn't  
8 really about you listening to me it is really about our  
9 me listening to you.

10 Our project is effective design in election  
11 administration (sic) and as Karen pointed out Sign  
12 for Democracy is an initiative for AIGA which has been  
13 around since 1999.

14 It eventually focused on clear communication  
15 and more thoughtful experiences in public sphere so we  
16 can trust in government and increase citizen  
17 participation.

18 The specific project we are working on is  
19 aimed at building expertise, or building from our  
20 expertise, experience and new research to create models

21 for optical scan electronic ballots and also for  
22 polling place signage.

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18

1 Now the exhibits we actually created are  
2 under Tab five in your binders. And I mention that  
3 because I am going to do something that is a little  
4 unusual in talking about design. And that is I am not  
5 going to show you the designs because what we really  
6 want to do is gain your input. And there is an  
7 opportunity for you to look at the work under tab five  
8 and get a sense of it. And also in a room right across  
9 the hall we have two staff people, user specialists and  
10 researchers who are there to gain your input on various  
11 of the exhibits that are over there.

12 So during the next day, well actually two  
13 days, we will have the room, again, right across the  
14 hall. There is Elizabeth Hare, our Project Director and  
15 Mary Kwan who is our experienced strategist and  
16 usability specialist strategist. And they both will be  
17 over there looking for your input on some the exhibits.  
18 The exhibits are things like this. And while they are  
19 all drafts the intention is to get your reaction so we  
20 can refine them.

21 I want to mention now a couple of things  
22 quickly about designers and try to disavow you of

□

19

1 certain preconceptions about about design. What we are  
2 talking about here is not people in flip flops and long  
3 pony tails who are trying to design this stuff. And we  
4 are not talking about arrogant artists wearing all  
5 black. What we are talking about are professionals who  
6 can take an experience and define and break it down  
7 into the small pieces that make an experience, like the  
8 voting experience, like the election experience and  
9 break it up into segments. And research how people  
10 react to information and then craft a solution.

11           So what we are really talking about is a  
12 process, a designing process, a way of thinking about a  
13 problem and the election process itself.

14           We broke it down into identification,  
15 orientation, instruction, action, is the voting part,  
16 completion. And what you do is you look at the election  
17 process and say what are all the pieces and how do  
18 people relate to that.

19           And out of that what we are going to do is we  
20 are going to propose to you guidelines that respect a  
21 number of issues, that respects a number of issues. It  
22 respects HAVA compliance; it will respect need to adapt

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20

1 materials for local applications; it will always to  
2 seek to find clarity and simplicity in what we are  
3 doing. And it will also reflect the need to respond to  
4 the technical requirements of voting equipment.

5           So right now our approach, and what happened  
6 to our project, right now our approach will deal with  
7 guidelines on the content, on what information is  
8 really needed by people at various stages.

9           You will deal with the voting system  
10 implication of course responding to the technical  
11 issues. It will deal with layout systems, the way  
12 people work through information. We know patterns that  
13 are most effective. And we will share those with you as  
14 well as issues of layout that reflect the needs of  
15 different technical systems. And also principles of  
16 design so that materials being adapted for the local  
17 level there are certain principles that you will know  
18 to follow.

19           What you see here are twelve stages in the  
20 design process. And I need to mention this again to  
21 point out that when you are dealing with a designer you  
22 shouldn't just expect them to design a ballot.

□



1           You should deal with designers who are  
2 actually asking you more about the process of design.  
3 And the issues that are highlighted, five and six,  
4 gather information and develop prototype ideas is a  
5 stage that we are at. With that, that is an important  
6 stage.

7           We need to understand how people need, use  
8 information. What information is needed and then you  
9 develop prototypes which are like the draft examples  
10 you will see across the hall and then you gain greater  
11 information.

12           This is one case where when we talk about  
13 testing we are not testing to figure out how well we  
14 have done. We are testing to inform what we do. So the  
15 idea here is that we have materials for you to react to  
16 and it is your reaction that is as critical as it is to  
17 what we bring to the project.

18           I know that for many dealing with this issue  
19 isn't traumatic but it is a tough one because ballots  
20 have been developed over the years and they have  
21 accommodated a huge amount of information, a huge  
22 amount of requirements that are very local. And most

□

1 people in this room, and most people in most of the

2 elections systems, feel very strongly, they feel the  
3 issues we are confronting are unique. And they are  
4 concerned that all of the challenges they have already  
5 faced be accommodated in the outcome.

6           Let me assure you that that is exactly why we  
7 want to hear from you. Understanding what you bring  
8 about, what is important, is actually critical for us  
9 to be able to adapt to something that you can use  
10 effectively at the local level.

11           One of the advantages of the work we have  
12 done. One of the advantages of the work that we have  
13 done our election design project team has already  
14 worked with election officials in Cook County, Illinois  
15 and the state of Oregon. And so in terms of the  
16 testing process we have actually have not only the  
17 kinds of test that we do in order to perform research,  
18 to understand how people can best understand the issues  
19 and answer the ballot. But also we have had field  
20 testing and post election use. And we bring to the  
21 project here not only that experience but also certain  
22 things that are true of virtually any information

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1 design issue.

2           And our objective here is useful usable  
3 design. And our core team and what we bring to it,  
4 among other things, in addition to that experience, we

5 bring what we know from other research in terms of how  
6 people use information. And we know that there are  
7 certain principles that we will share with you that  
8 regardless of how your design evolves that you need to  
9 keep in mind and that is the design is not because it  
10 makes things look pretty but because it makes things  
11 useful. It makes things usable. They are effective.  
12 They are clear, they are simple.

13           These are things like using clear capital  
14 letters; not center lining type; keep the number of  
15 type variations down; understand information hierarchy;  
16 and using graphics to help illustrate points. We will  
17 share those things. And that's where we start.

18           Then we have our own panel of experts and  
19 project advisors that advise us and become part of that  
20 process of testing. Are we making the right conclusion  
21 when we are coming up with certain solutions?

22           And the next critical aspect is all of you.

□

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1 That's why we will be here for two days because we need  
2 to hear from you the issues that are most important to  
3 you and make sure we can accommodate them.

4           And then of course there are the voters as  
5 well. We look to them and their response in two ways.  
6 One is through putting together some test situations

7 with prototypical or typical voters in advance and also  
8 the outcomes of actual use.

9           The concept we are taking here is we want to  
10 create a design that is simple enough to address  
11 exceptional means. And by dealing with the needs at the  
12 extremes, the exceptional needs, and making something  
13 simple and clear for them we believe we will meet  
14 everyone's requirements.

15           So in this next round of testing that we do  
16 we are going to include people from 18 to 21 years of  
17 age, 65 to 80 and address the kind of issues that Karen  
18 pointed are the object of the issues and that is  
19 dealing with literacy issues, readability, usability,  
20 alternate languages, braille and audio accessibility  
21 and ADA compliance. And then in addition we will try to  
22 see what the requirements are for localization, for low

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1 experience levels and also for cultural obstacles.  
2 Ultimately again the outcome will be models that are  
3 other compliant, capable for local variability, easy to  
4 implement and sensitive to technical requirements.

5           The next stage will be some tests that we  
6 will do in the field, task based usability testing. We  
7 plan to do it on the east coast, midwest and west  
8 coast. And certainly if any of you want to be involved  
9 in this be sure to let Elizabeth or Mary know because

10 we have not selected sights yet. And the testing will  
11 be putting together, presumably, test labs and bring in  
12 volunteers to actually use the information.

13 I mention we will be in the room across the  
14 hall in the McPhearson Square Room, oh, I guess  
15 tomorrow is in the Board Room, it is not across the  
16 hall. So in the McPhearson Square Room, all day today  
17 until 6 o'clock. And tomorrow it will be in the Board  
18 Room which is also on this level Board Room one I  
19 believe from 10 a.m., to 6 p.m. And you can also  
20 respond and even if it is not responding to what you  
21 see sharing with us your concerns.

22 Now what is this? We also want to get your

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1 feed back on line. But this is one of those slides from  
2 hell. You know you try to come up with a simple  
3 solution, especially for designers who talk about  
4 simplicity. You try to come up with a simple solution  
5 and you get a URL that no one can remember. So we will  
6 skip that. We are looking for a survey monkey to do  
7 another job.

8 Nest, you can use this link on the Home page  
9 of Design for Democracy.org./participate URL there is  
10 a link of that on line survey which is going to be  
11 available through the end of the month for any of your

12 comments on any materials in Tab 5. And again: Design  
13 for Democracy.org/participate. And that will be up for  
14 ten more days, until the end of the month to gather  
15 your comments.

16           There are the names of Mary and Elizabeth who  
17 we be here the next two says seeking your input. And we  
18 certainly welcome it in any way or form you choose to  
19 get it to us. But it is critical for us to hear from  
20 all of you on this in order to accommodate your needs.  
21 Thank you.

22           MR. MARTINEZ: Any questions on this

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1 particular presentation? Okay. Great thank you.

2           It occurs to me as I was listening to that  
3 presentation that perhaps this room could have been  
4 designed a little better for our meeting. Howard is  
5 that you behind the pillar? I think so. So our  
6 apologies for columns that are blocking the view, not  
7 that you want to see us up here anyway. But hopefully  
8 you can hear us back there, Howard.

9           What we want to do next, the final  
10 presentation both of this presentations on Public  
11 Access Portals and Spanish and Asian Language Working  
12 Groups that we have assembled will be presented by  
13 Edgardo Cortes who is one of our research specialists  
14 at the EAC. He will talk to you very quickly about

15 these issues and give you a chance to ask questions.

16 I also want to say about the previous  
 17 presentation we reached out to Design for Democracy and  
 18 to pull together best practices on ballot design and  
 19 polling place signage et cetera. Based upon the input  
 20 and urging from many of you out there we actually got a  
 21 lot of feed back from, in particular, our Board of  
 22 Advisors, upstairs, that this was a useful project for

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1 us to do with a lot of positive feedback from election  
 2 officials who had worked with Design for Democracy. And  
 3 we felt they were an important group to bring in. Have  
 4 them do some templates and some best practice  
 5 documents that we could put out for your consumption to  
 6 see if you want to follow up with any of their work.  
 7 And that is why you heard that presentation.

8 Okay. The following two presentations very  
 9 quickly, Edgardo Cortes with the EAC staff:

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12 PUBLIC ACCESS PORTALS & SPANISH & ASIAN

13 LANGUAGE WORKING GROUPS .

14

15 MR. CORTES:

16 Thank you Mr. Vice Chairman. Give me just a

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17 minute to set this up.

18           Good afternoon, everyone, my name is Edgardo  
19 Cortes. I have been with EAC since late July of last  
20 year. Prior to that I used to run a National Voter  
21 Registration campaign that was funded by the government  
22 of Puerto Rico as well as did some political

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1 consulting work for a couple of campaigns around the  
2 country. Probably working with Peggy Sims dealing with  
3 all the requirement payments issues, the HAVA funding  
4 questions that come in, the College Board Approval  
5 Programs, any NVRA issues that come up and so anything  
6 I am Peggy's backup for that. So a lot of stuff you  
7 send in to us she and I work on getting your responses  
8 to.

9           First thing I am going to talk about is the  
10 Public Access Portal Project that we have been working  
11 on since last fall. We awarded a contract to  
12 Publius.org to conduct a study which will examine and  
13 create a best practices document about Public Access  
14 Portals.

15           Publius is a non partisan, non profit 501C3  
16 based out of Detroit Michigan. They have been in  
17 existence for about ten years now. And actually got  
18 their start setting up an information web site like  
19 this for the state of Michigan.



20           The methods up here is essentially from the  
21 research that is ongoing, it is kind of a color coded  
22 map as to what sorts of web sites by available by

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1 state. You can see some of them have state wide sites  
2 available. Some just have independent jurisdictions,  
3 half sites. Some are county based. And you can also see  
4 there are quite a few states that don't have anything  
5 set up so far. So those are kind of-- in terms of the  
6 research that is a visual representation of what they  
7 have looked at so far.

8           They have from September through December  
9 what they did was they went out and started doing an  
10 initial search of what web sites were out there and who  
11 is running them. And to this point they have identified  
12 and reviewed approximately 425 state, county and local  
13 web sites that provide information to voters.

14           of those 425 what they did was, starting in  
15 January, they started a more comprehensive look at a  
16 much smaller section of those, approximately fifty.  
17 what they have done is they are going in an ah, number  
18 one, going through the process of looking up  
19 information on the site, capturing what information is  
20 provided, how it is being provided all those sorts of  
21 things.

052306  
22 And then they have also conducted about 100

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1 interviews so far, finance reviews with the  
2 administrator that run these sites, with the IG folks.  
3 And what they have done in terms of those 50 sites they  
4 really went out and got a variety of state, county and  
5 local web sites to look at. They focused on urban and  
6 rural web sites, you know various that were urban and  
7 rural. They looked at as much geographic diversity as  
8 possible so that the Best Practices Document that comes  
9 out in the end will address some of the regional  
10 differences that might exist in terms of how  
11 information is presented. And will look at the  
12 differences throughout the states.

13 A couple facts about the web site. The  
14 actual first source of these informational web sites  
15 actually date back to around 1996, when the Internet,  
16 the use was not very wide spread yet. And so they  
17 really advanced a lot between then and now.

18 In terms of their initial research one of the  
19 things that they have found to be the most popular  
20 function-- when we went into this we really thought  
21 that the big questions were people wanting the check  
22 their registrations status, their voter registration

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1 status. And to know where their polling place was  
2 located.

3 That was one of the reasons we received this  
4 project, the kind of internal, initial research that we  
5 did to prepare to let this out a contractor indicated  
6 that those were the two big questions.

7 what we actually found is that aside from  
8 those, those are very important actually, but one of  
9 the things that draws people most to these sites are  
10 the sites that have candidate information and sample  
11 ballot information on the sites. Which is something  
12 they are taking a look at in terms of what ways that  
13 can be readily presented to folks. And what they found  
14 is that sites that have the usage increases  
15 dramatically once that information goes up closer to  
16 election time. Once those sites put that information up  
17 the usage goes up.

18 Another interesting thing that we were able  
19 to take a look at this year, and it is going into the  
20 final report actually, is Louisiana set up a web site  
21 to provide voter information to displaced voters. Folks  
22 that were displaced after Hurricane Katrina. And they

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1 set up this web site so that those folks, prior to the  
2 special election in New Orleans, would be able to, from  
3 anywhere in the country, go in and access not only the  
4 information of, you know, the dates and everything,  
5 but were able to get information on the absentee ballot  
6 process, were able to down load applications for  
7 absentee ballots and really provided a lot of  
8 information and was kept up to date. So Publius was  
9 actually able to, because of the timing of our project  
10 was actually able to look at from beginning to end this  
11 process and has spoken with folks in Louisiana about  
12 it. And that is one of the things we will be dealing  
13 with in the final report which we might be able to use  
14 in the future for other studies as well.

15           One of the things that may or may not  
16 surprise you is that number one there is a lot of  
17 interest at all levels for providing these sites. It is  
18 has really been an issue of resources up until now as  
19 to whether or not jurisdictions provide these sites and  
20 how advanced they are.

21           One of the things through the phone calls and  
22 interviews that they have done with existing sites is a

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1 lot of the smaller jurisdictions and the counties have  
2 been kind of stalling further development of these  
3 sites because there is a lot of concern out there about  
4 how the switch to a statewide voter registration list  
5 is going to impact states providing this information  
6 whether or not it is going to be done at a state level.  
7 And kind of remove the need for them to have it at the  
8 local level. So that is one of the concerns that has  
9 come up during the research as well.

10           One thing that shouldn't surprise anybody is  
11 there is no one promotion strategy for these sites that  
12 works. Every location that has them is different as to  
13 how they get the word out about them and how they draw  
14 people to those sites.

15           In terms of timing, just go give everybody an  
16 idea, they have been doing this research for a while  
17 now. They are hoping to-- we are hoping to have the  
18 draft document ready by mid to late summer. So July or  
19 August we are hoping to have a draft document available  
20 which we will-- I will work with the Commissioner to  
21 make sure that we are able to distribute that to both  
22 the Standards Board and the Board of Advisors for

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1 people to be able to look at it, give their feed back  
2 before it goes into the final version which we hope if

3 we can get the draft in mid Summer and we are hoping  
4 that sometime in the early Fall we will be able to have  
5 a final document out there.

6 In terms of the time line we realize it is an  
7 election year. We realize this information is going out  
8 in the Fall. One of the things that we realized early  
9 on was that even last Fall it was to the point where it  
10 was pretty much too late for states and jurisdictions to  
11 implement the suggestions that were going to come out of  
12 this in time to impact this year's elections. So what  
13 we are really hoping to get out of this document is  
14 that it will be available toward the end of this cycle  
15 so that once we get into next year and people start  
16 looking toward the '08 Presidential elections. And we  
17 have gotten past the HAVA deadlines and everybody's  
18 attention starts to shift this information will be out  
19 there so that states, and counties and local  
20 jurisdictions can take the information in here and be  
21 able to implement these sites with enough time to make  
22 them functional and work out all the bugs and

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1 everything before we move into the election year. So  
2 that's what we are looking at in terms of time lines  
3 for this project.

4 I will take questions about both of these  
5 after I finish the second topic

6

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SPANISH AND ASIAN LANGUAGES WORKING GROUPS.

8

9 Many of you know there have been a lot demographic  
10 changes in the country and a lot of-- particularly in  
11 the past decade there is a lot of jurisdictions that  
12 have sizeable populations that fall under Section 203  
13 of Voting Rights Act, or who will soon be, and a lot  
14 jurisdictions. And lot of jurisdictions that didn't  
15 before now have to provide information in alternative  
16 languages.

17 We have seen it and we realize the issues  
18 that come up in terms of jurisdictions that have never  
19 dealt with alternative languages or to some of the  
20 issues that come up and how can they implement this  
21 properly.

22 Prior to my getting here the work had already

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1 started on these projects. It was decided by the  
2 Commission that we should-- really what we should do is  
3 to bring together some working groups that consist of  
4 election administrators, advocacy organizations,  
5 different people that deal with the issues that come up  
6 and deal with them first hand and let us know what sort  
7 of research we can conduct that will help you in that

8 process.

9 HAVA section 241, which is the section that  
10 talks about the studies of election administrations one  
11 of the things that it charges the EAC to do is conduct  
12 research on making information most convenient,  
13 accessible and easy to use for voters including voters  
14 with limited proficiency in the English language. So  
15 that is actually in HAVA. And one of our mandates is to  
16 go out there and find information to make it easier to  
17 provide or to administer elections using alternative  
18 languages.

19 The way we started out was last August we had  
20 the first meeting of the Spanish language working  
21 group. We had that at the EAC offices. And the reason  
22 we chose to deal with the Spanish language first is

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1 number one it is largest alternative language that  
2 folks are dealing with. Most of the-- the majority of  
3 jurisdictions out there that deal with alternative  
4 languages have been dealing with Spanish. And that  
5 really has been because of the growing population size  
6 it has been an issue that a lot of knew jurisdictions  
7 have had to deal with. So we wanted to bring that group  
8 together and see what sort of things we could do. That  
9 was in early August.

10 The next group we decided to bring together  
Page 34

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11 was a group to discuss access to different Asian  
12 languages. Under Section 203 of the Voting Rights Act  
13 there are actually five Asian languages, Asian and  
14 Pacific Islander languages that are covered and that  
15 certain jurisdictions have to provide information in  
16 those languages. That is Chinese, Japanese, Korean,  
17 Vietnamese and Tadolwin (sic). So that working group we  
18 actually had at the end of April, so just about a month  
19 ago we brought that group together.

20               We are looking toward the future, hopefully  
21 sometime next year to be able to bring together a  
22 working group dealing with native American languages.

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1 And that one is going to be really interesting because  
2 with a lot of languages we are talking about languages  
3 that have no written form, they are all spoken  
4 languages. And so that presents a whole additional set  
5 of issues when you're talking about administering  
6 elections and providing information in an alternative  
7 language that you can't write.

8               So basically what all three of these groups  
9 are meant to do is provide the EAC with, or help us in  
10 accessing what sort of language specific projects we  
11 can conduct as an agency.

12               Some of the things that have already come up

13 and that we are actually are working towards is number  
14 one creating translation dictionaries of election  
15 terminology to have a document that would provide a  
16 whole list of election terms and provide a translation  
17 from English to whatever the alternative language is.  
18 The first one we are working on is actually English to  
19 Spanish. And so we are also looking towards doing the  
20 five Asian languages.

21 And one of the biggest complaints we have  
22 gotten in terms of, and I am sure you have all heard,

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1 in terms of trying to provide this information is that  
2 the translation services that are out there aren't  
3 always the best. And when election information gets  
4 translated a lot of time it is a literal translation  
5 and the meaning is really lost when you translate it to  
6 the other language.

7 So we are hoping by providing this tool for  
8 election administrators it can help you all meet the  
9 needs of the communities that you are serving, and the  
10 electorate that you serve.

11 The other project that we actually are  
12 working and we hope to have ready by mid summer is  
13 providing a translation of the National Voter  
14 Registration form. We have the Spanish language  
15 version, the updated one already up on our website.

16 Both the English and the Spanish were recently updated.  
17 But the form hasn't been translated into the five Asian  
18 languages since the FEC first created the initial voter  
19 registration form. So it has been quite a while. And we  
20 are hoping to get that done fairly quickly so that  
21 those jurisdiction can have voter registration forms  
22 available in those languages later this year.

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1 And then finally we are-- one of the roles of  
2 these groups is to provide us not only with the feed  
3 back but to help us prioritize. I mean there is all  
4 these questions all the time for different research  
5 projects that you all think would be useful. And by  
6 bringing these groups together we are hoping to  
7 establish some sort of priority for what we can do  
8 short term to get some immediate assistance out there  
9 and then look at what we can do long term in terms of  
10 these issues.

11 So that is pretty much what the language  
12 groups are doing. So I can take some questions.

13 MR. MARTINEZ: We can move very quickly for  
14 some questions or comments from anybody out there? Any  
15 questions or comments about Public Access Portals or  
16 the working groups we have assembled, Secretary  
17 Kidmeyer.

18 SECRETARY KIDMEYER: A question in regards to  
19 dialects how do you handle dialects even though it is  
20 the same language?

21 MR. CORTES: That is actually one of the  
22 things we spent a lot of time on actually during both

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1 working groups. The Spanish language translations are  
2 the first ones we are working on so I can tell you a  
3 little bit about how we are going to handle that.

4 One of the suggestions we had was to bring  
5 together a group of language experts, academics to  
6 review the work we are doing in terms of translation.  
7 But the other thing that we are doing is we are going  
8 to look at what the regional differences are and  
9 provide alternative terms to reference the same thing.

10 For instance the word ballot is translated  
11 into Spanish is different if you go to Florida if you  
12 go to New York , if you go to California. They all use  
13 different terms for that. In the instances were we can  
14 provide some sort of standard translation term that  
15 everybody understands or alternatively for those were  
16 that doesn't exist to provide, you know, multiples  
17 translations so that depending on where you're at you  
18 can look and see what sort of populations you are  
19 coming from.

20 A lot has to do with country of origin. So

21 providing that information you will be able to go to  
22 the list and say well my jurisdiction has a very large

□

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1 Puerto Rican population this is probably the  
2 translation form I should use.

3 MR. MARTINEZ: Other questions please? Yes,  
4 John.

5 JOHN LINDBACK: It is a really basic  
6 question. I don't understand the difference between a  
7 Public Access Portal and conventional website. Because  
8 we have had a ton of information out there on a  
9 conventional website. When you talk Public Access  
10 Portals what do you mean exactly?

11 MR. CORTES: It is essentially a voter  
12 information website. And what they are looking at is a  
13 website where you can go in and get information as far  
14 as registration status. It is a polling state  
15 locations, candidate information, all those very  
16 specific election information.

17 We do realize that most states do have basic  
18 sites, whether it is the Chief Election Officer or the  
19 local jurisdictions that have polling place hours and  
20 those things. We are really looking at sites that open  
21 further and are more interactive in terms of the  
22 information that people can pull from them.

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1           MR. MARTINEZ: And some states, I think, have  
2 more experience in putting forth what is regarded as  
3 Public Access Portals. I am looking at Sarah Ball  
4 Johnson who is right next to you because I think  
5 Kentucky is one of the states that has been something  
6 like this for a while. She is whispering to you right  
7 now.

8           I broke my own rule. When you raises your  
9 hand to speak if you can introduce yourself, state your  
10 name for the court reporter. And I apologize, Secretary  
11 Mary Kiffmeyer and John Lindback from Oregon. Mary  
12 Kiffmeyer from Minnesota.

13           Any other questions or comments on anything  
14 that was presented, please.

15           Okay. Edgardo, thank you very much. I  
16 appreciate your work.

17           Again as a quick background what we are  
18 presenting to you over the next day and a half, and  
19 what we just started with the first four presentations  
20 are research projects that are grounded in some place  
21 in our government statute, within HAVA.

22           We are either wearing a hat of producing a

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1 national clearing house of best practices; or we are  
2 wearing a hat of having to produce voluntary guidance  
3 to help clarify title free requirements. So there are  
4 different hats that the EAC will wear statutorily that  
5 when we wear the hat we want to wear it in the manner  
6 that is consistent with the advice that we get from our  
7 statutory boards, and that is you.

8           Again what we do proactively is to try to  
9 reach out to all of you, as many as we can  
10 individually, throughout the course of our fiscal year,  
11 asking you to participate in working groups, many of  
12 you have done so, seeking your advice through our  
13 fiscal year. We have a chance to get you all in one  
14 room once or twice a year to put it all in front of you  
15 and solicit your candid feedback.

16           So again I encourage your questions. And it  
17 doesn't have to happen in this hour. We can continue  
18 this conversation throughout the duration of the next  
19 day and a half I am going to turn the mic over, after  
20 the break, to your Executive Board and they will  
21 commence the official gavel of your Standards Board  
22 Meeting. So thank you very much for being here once.

1 Thank you for what I know will be a productive day and  
2 a half. The four Commissioners will be in and out  
3 because we have the Board of Advisors going on  
4 simultaneously two floors above you we will be  
5 alternating in and out. But all four Commissioners will  
6 be around for the next couple of days. We look forward,  
7 I certainly look forward to engaging in conversation  
8 both with the body collectively and all of you  
9 individually.

10 So with that Madam Chair, I have 1:25 if you  
11 want to allow for a ten break we can just go five  
12 minutes off your schedule. I have 1:25 if we can  
13 reassemble at 1:35. Thank you very much.

14 ( Recess from 1:25 to 1:45 P.M.)

15 MS. NIGHTSWONGER: Okay. Commission Martinez  
16 has already welcomes you and I would also like to  
17 welcome you to our meeting here of the National  
18 Standards Board. And I am only here because Mike left  
19 us. He had the nerve to go out on us. And you all  
20 probably got that email about him getting a new  
21 fantastic job. So he kind of left me hanging out here.  
22 So all of you are going to have to be very patient with

1 me today and tomorrow and please don't throw tomatoes  
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2 at me from the crowd. I will try to get someone up here  
3 in a few minutes to help keep me in line.

4 Before we begin to day I guess I should call  
5 this meeting to order first of all. I don't have a  
6 gavel. I don't know if Adam took it or what happened. I  
7 would like to just talk about a couple of ground  
8 rules that I'd like to put in place here and that is  
9 for our Court Reporter here is going to be taking the  
10 minutes, the official minutes of this meeting so we  
11 really do need to speak in a microphone when we go to  
12 the floor. And we are going to have some roving mics  
13 so that you don't always have to get out of your seat.  
14 So if you will raise your hand I will call on you and  
15 the people carrying the mic will get a microphone to  
16 you. And I would like you to address the group with  
17 your name and where you are from please. And then you  
18 can give your question or whatever. So if you can just  
19 try to do that. That way we will know who is talking  
20 and what they are saying and we can hear very well.

21 The first thing we need to do is call the  
22 role. So I would like to have Bill Campbell if you

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1 would go ahead and do that. If you would respond when  
2 he call your name so we can make sure we have a quorum  
3 at this meeting.

4 MR. CAMPBELL: I will read the state name and  
5 then the members.  
6 Alabama, Nancy Worley.  
7 MS. WORLEY: Here.  
8 MR. CAMPBELL: Luke Cooley (no response).  
9 Alaska, Whitney Brewster.  
10 MS. BREWSTER: Here.  
11 MR. CAMPBELL: Shelly Crowden?  
12 MS. CROWDEN: Here.  
13 MR. CAMPBELL: American Samoa? Soliai T.  
14 Fuimaono?  
15 MR. FUIMAONO: Here.  
16 MR. CAMPBELL: FILIVAA MAGEO? (No response).  
17 MR. CAMPBELL: Arizona? Kevin Tyne.  
18 MR. TYNE: Here.  
19 MR. CAMPBELL: Mitch Etter?  
20 MR. ETTER: Here.  
21 MR. CAMPBELL: Arkansas, Charlie Daniels? (No  
22 response) .

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1 MR. CAMPBELL: Mary Lou Slinkard?  
2 MS SLINKARD: Here.  
3 MR. CAMPBELL: California, Brad Clark?  
4 MR. CLARK: Here.  
5 MR. CAMPBELL: Coney McCormack? (no response).  
6 MR. CAMPBELL: Colorado, Gigi Dennis (no  
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7 response).

8 MR. CAMPBELL: Russ Ragsdale? (No response).

9 Connecticut. Michael Kozik? (No response).

10 Sandra Hutton? (No response).

11 Delaware, Frank Calio? (no response).

12 Howard Sholl?

13 MR. SHOLL: Present.

14 MR. CAMPBELL: District of Columbia, Alice

15 Miller?

16 MS. MILLER: Here.

17 MR. CAMPBELL: Jonda McFarlane? (no response)

18 Florida; Dawn Kimmel Roberts?

19 MS. ROBERTS: Here.

20 MR. CAMPBELL: Bill Cowles?

21 MR. COWLES: Here.

22 MR. CAMPBELL: Georgia, Kathy Rogers (No

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1 response) Lynn Bailey?

2 MS. BAILEY: Here.

3 MR. CAMPBELL: Guam, Gerald Taitano?

4 MR. TAITANO: Here.

5 MR. CAMPBELL: Hawaii, Scott Nago?

6 MR. NAGO: Here.

7 MR. CAMPBELL: Glenn Takahashi?

8 MR. TAKAHASKI: Here.

9 MR. CAMPBELL: Idaho. Timothy Hurst? (no  
10 response) Dan English? (no response).  
11 Illinois, Daniel W, White?  
12 MR. WHITE: Here.  
13 MR. CAMPBELL: Richard Cowen? (No response)  
14 Indiana, Todd Rolita?  
15 MR. ROKITA: Here.  
16 MR. CAMPBELL: The Honorable Shannon  
17 Weisheit?  
18 MS SHANNON WEISHEIT: Here.  
19 MR. CAMPBELL: Iowa, Chet Culver? (No  
20 response) Renee McClellan? (No response).  
21 Kansas Ron Thornburgh? (No response).  
22 Donald Merriman? (no response).

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1 Kentucky. Sarah Ball Johnson?  
2 MS. JOHNSON: Here.  
3 MR. CAMPBELL: Don Blevins?  
4 MR. BLEVINS: Here.  
5 MR. CAMPBELL: Louisiana, Marietta Spencer  
6 Norton? (No response).  
7 Louie Bernard?  
8 MR. BERNARD: Here.  
9 MR. CAMPBELL: Maine, Julie Flynn?  
10 MS. FLYNN: Here.  
11 MR. CAMPBELL: Clairma Matherne?  
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12 MS. MATHERNE: Here.  
 13 MR. CAMPBELL: Maryland, Linda H. Lamone? (No  
 14 response).  
 15 Kim A. Atkins? (No response).  
 16 Massachusetts, William Francis Calvin? (No  
 17 response) William.  
 18 MR. CAMPBELL: I am here.  
 19 Michigan, Thomas Luitje?  
 20 MR. LUITJE: Here.  
 21 MR. CAMPBELL: Tony Bartholomew?  
 22 MR. BARTHOLOMEW: Here.

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1 MR. CAMPBELL: Minnesota, Mary Kiffmeyer?  
 2 MS. KIFFMEYER: Present.  
 3 MR. CAMPBELL: Sharon Anderson?  
 4 MS. ANDERSON: Here.  
 5 MR. CAMPBELL: Mississippi, Jay Eads? (No  
 6 response) Marilyn Avery? (No response).  
 7 Missouri, Leslye Winslow?  
 8 MS. WINSLOW: Here.  
 9 MR. CAMPBELL: Richard T. Struckhoff?  
 10 MR. STRUCKHOFF: Here.  
 11 MR. CAMPBELL: Montana, Elaine Gravely? (No  
 12 response) Vickie Zeier?  
 13 MS. ZEIER: Here.

14 MR. CAMPBELL: Nebraska, John Gale? (no  
15 response) Roberta Zoucha? (No response).  
16 Nevada, Dean Heller? (No response).  
17 Harvard L. Lomax?  
18 MR. LOMAX: Here.  
19 MR. CAMPBELL: New Hampshire, Anthony Stevens?  
20 MR. STEVENS: Here.  
21 MR. CAMPBELL: Carol Johnson?  
22 MS. JOHNSON: Here.

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1 MR. CAMPBELL: New Jersey, Maria Delcoch?  
2 MS. DELCOCH: Here.  
3 MR. CAMPBELL: Joanne Ambruster?  
4 MS. AMBRUSTER: Here.  
5 MR. CAMPBELL: New Mexico, Rebecca  
6 Vigil-Geron?  
7 MS. VIGIL-GERON: Here.  
8 MR. CAMPBELL: David Kunko? (no response)  
9 New York, John Haggerty?  
10 MR. HAGGERTY: Here.  
11 MR. CAMPBELL: Edward Szczesniak?  
12 MR. SZCZESNIAK: Here.  
13 MR. CAMPBELL: North Carolina, Johnnie  
14 McLean?  
15 MS. MCLEAN: Here.  
16 MR. CAMPBELL: Kathie Cooper? (No response)

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17 North Dakota, James Silrum?  
 18 MR. SILRUM: Here.  
 19 MR. CAMPBELL: Michael M. Montplairer?  
 20 MR. MONTPLAISER: Here.  
 21 MR. CAMPBELL: Ohio, J.Kenneth Blackwell?  
 22 (no response).

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1 Steve Harsman?  
 2 MR. HARSMAN: Here.  
 3 MR. CAMPBELL: Oklahoma, Clint Parr? (No  
 4 response).  
 5 Oregon, Jack Lindback?  
 6 MR. LINDBACK: Here.  
 7 MR. CAMPBELL: John Kauffman?  
 8 MR. KAUFFMAN: Here.  
 9 MR. CAMPBELL: Pennsylvania, Pedro Cortes?  
 10 (No response) Regis Young?  
 11 MR. YOUNG: Present.  
 12 MR. CAMPBELL: Puerto Rico, Nester J. Colon  
 13 Berlingeri? (No response).  
 14 Juan M. Toledo-Diaz?  
 15 MR. TOLEDO-DIAZ: Here.  
 16 MR. CAMPBELL: Rhode Island, Jan Ruggerio?  
 17 (no response).  
 18 Marian Clarke? (no response).

19 South Carolina, Marci Andino? (No response)  
20 Marilyn Bowers?  
21 MS. BOWERS: Here.  
22 MR. CAMPBELL: South Dakota, Kea Warne.

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1 MS. WARNE: Here.  
2 MR. CAMPBELL: Sue Roust?  
3 MS. ROUST: Here.  
4 MR. CAMPBELL: Tennessee, Brook Thompson? (No  
5 response) Joe Enock? (No response).  
6 Texas, Trey Trainor?  
7 MR. TRAINER: Here.  
8 MR. CAMPBELL: Dana DeBeauvoir?  
9 MS. DeBEAUVOIR: Here.  
10 MR. CAMPBELL: Utah, Michael Cragun?  
11 MR. CRAGUN: Here.  
12 MR. CAMPBELL: Robert Pero?  
13 MR. PERO: Here.  
14 MR. CAMPBELL: Vermont, Deborah Markowitz?  
15 MS. MARKOWITZ: Here.  
16 MR. CAMPBELL: Arnette Cappy? (No response).  
17 MR. CAMPBELL: Virginia, Jean Jansen?  
18 MS. JANSEN: Here.  
19 MR. CAMPBELL: Allan Harrison, Jr.?  
20 MR. ALLAN HARRISON, JR.: Here.  
21 MR. CAMPBELL: Virgin Islands, Corinna  
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22 Halyyard Plaskett?

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1 MS. PLASKETT: Here.  
 2 MR. CAMPBELL: Natalie Thomas?  
 3 MS. THOMAS: Here.  
 4 MR. CAMPBELL: Washington, Paul Miller?  
 5 MR. MILLER: Here.  
 6 MR. CAMPBELL: Bob Terwilliger?  
 7 MR. TERWILLIGER: Here.  
 8 MR. CAMPBELL: West Virginia, Benjamin  
 9 Beakes? (No response).  
 10 Gary Williams? (No response) .  
 11 Wisconsin, Kevin Kennedy?  
 12 MR. KENNEDY: Here.  
 13 MR. CAMPBELL: Sandra L. Wesolowski?  
 14 MS. WESOLOWSKI: Here.  
 15 MR. CAMPBELL: Wyoming, Peggy Nightswonger?  
 16 MS. NIGHTSWONGER: Present.  
 17 MR. CAMPBELL: Julie Freese?  
 18 MS. FREESE: Here  
 19 .  
 20 MS. NIGHTSWONGER I believe we need 56  
 21 members for a quorum, so we will figure this out.  
 22 MR. CAMPBELL: Is there anyone that did not

□

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1 respond to the roll call?

2 MS. NIGHTSWONGER: Okay. We have a sufficient  
3 number of members to conduct business. We will move  
4 ahead.

5 Before we get started here with some other  
6 things on the agenda I would like to introduce the  
7 Executive Board if I could. Probably most of you know  
8 who they are but I'd like them to stand so you can make  
9 sure you know what their face looks like in case you  
10 want to bombard them with a problem or an issue that  
11 you're having.

12 Actually is the room okay? I want to ask  
13 that. Is anyone too hot or too cold or do we care that  
14 they are uncomfortable?

15 So if I could just have you stand when I call  
16 your name. First of all Indiana Secretary of State Todd  
17 Rokita. And Vermont's Secretary of State Deborah  
18 Markowitz. Oregon Director of Elections John Lindback.  
19 Kentucky Executive Director Sarah Ball Johnson. City  
20 Clerk of Woburn, Massachusetts Bill Campbell who is up  
21 here with me. And Clark County Registrar of Voters,  
22 Harvard Lomax. And last but not least, even though he

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1 came last Natchitoches Clerk of the Court, Louie  
2 Bernard. And Louie do you want to come up. You have  
3 something to say. I am almost afraid to call him to the  
4 table. So that's your Executive Board. And I really  
5 appreciate all of them and the help they haven given  
6 me. Now you know what they look like in case you have  
7 forgotten since Denver.

8 MR. BERNARD: I was asked to be the chaperon  
9 for the Executive Board when we were first elected. I  
10 was not here last night. I have nothing to do with last  
11 night. I don't know what they did and I don't want to  
12 know what they did.

13 It is very good to see all of you. I couldn't  
14 come in until this morning. Beverly Kauffman and I flew  
15 up together from Houston. We just happened to meet up,  
16 it is good to be here and see all these familiar faces  
17 again.

18 As most of you know Ray Martinez has  
19 announced that he will be leaving the EAC in June. I am  
20 personally very pleased about that because anyone who  
21 has worked with Ray, you know how pushy he can be  
22 (laughter). For almost two years we all have had the

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1 honor and privilege to work with this tireless and  
2 selfless man. And we all better people for and a better  
3 EAC for him having come our way.

4 I don't know about you, I sense in this  
5 country a partisanship that almost strangles everything  
6 we try to do. Our Commissioner since the day I came in  
7 here at the meeting in Houston. I've always been amazed  
8 how they seem to get along and work together with one  
9 another. I have no doubt that behind closed doors when  
10 we go home they may holler and scream but there is an  
11 outward appearance that lets try to respect each other  
12 and accomplish something for the entire  
13 group. And I think that is a good thing to do.

14 Ray Martinez has been at the heart of all  
15 that is positive, that has happened with EAC in this  
16 relatively short period of time.

17 He is one of the four, what I call one of the  
18 four T-Rex's at the EAC but the endearing quality  
19 about Ray is that he doesn't know he is one of those.  
20 He is a man of great humility. He is a man of great  
21 sincerity and he is someone more than anything else  
22 respects someone's point of view.

□

1 where I come from the nicest thing that can  
2 be said about a man is that he is truly a gentleman.

3 And I think without question, despite if you agree with  
4 everything that Ray has said or done, that Ray Martinez  
5 is truly a gentleman.

6 Ray, the Executive Board and the Standards  
7 Board would like to wish the very best in all that  
8 comes down your way in the future we want to give to  
9 you our heartfelt appreciation for all you have done  
10 for us.

11 I think it would be a shame for anybody to be  
12 a part of any organization and leave without being able  
13 to say they made a difference. I don't think Ray  
14 Martinez has anything to worry about when it comes to  
15 having made a difference at the EAC.

16 So I will close it by allowing Peggy to  
17 present this plaque. And Ray I just want to tell you  
18 that on behalf of all of us it is not an original  
19 blessing but it is something that I feel is very  
20 appropriate as you leave, the old Irish blessing, we  
21 would all say to you:

22 "May the Road rise to meet you.

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1 May the wind be always at your back.  
2 May the sun shine warm upon your face.  
3 May the rain fall softly upon your fields.  
4 And until we all meet again may the Lord.

5 Hold you in the palm of His hand."

6

7 Ray, would you come forward you. (Applause).

8 Presented to Ray Martinez III for selfless

9 and exemplary service to the Elections Assistance

10 Standards Board, our heartfelt thanks for going the

11 extra mile for America's voters this 23rd day of May

12 2006, by a very appreciative Executive Board.

13 MR. MARTINEZ: Thank you very much. I am

14 going to get out of your way quickly. I can not thank

15 you, Louie, for the wonderful words and my thanks to

16 all of the members of the Executive Board. I have had

17 the distinct privilege of working very closely now for

18 the past year that I feel like I am a close friend with

19 each and every one of them for a very long time now. I

20 am so appreciative.

21 And you know I am still the Commissioner for

22 at least a few more weeks and I am going to savor every

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1 moment of it because has been truly for me the most

2 fulfilling professional experience in my life.

3 In my household growing up in south Texas

4 public service meant something. And I am proud to say

5 to my family and all my friends that I have tried to

6 fulfill that. So I thank you very much. It is with

7 genuine sincerity it has been a privilege for me, a

8 real privilege and honor, to work with all of you. So  
9 thank you very much now get to work.

10 (Applause).

11 MS. NIGHSWONGER: Thank you Commissioner.

12 The first order of business is we need to  
13 a appoint a Parliamentarian. And Julie has been so kind  
14 to do that for us in the past. She too has left us. I  
15 don't know what is going on here. Everyone is leaving  
16 us.

17 So I would like to open this up. I am sure  
18 many of you are Parliamentarians and would love the  
19 opportunity to sit up here beside me and keep me in  
20 line. So is there anyone who would like to do that  
21 today? Don't be shy. We know who you are. Some on.  
22 Nobody? Lou, what do you think.

□

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1 MR. BERNARD: I think they are being shy.

2 I know there is someone out there who can do  
3 it. You don't want me.

4 MS. NIGHSWONGER: Anybody? I really do need  
5 help, honest. Secretary Kiffmeyer, oops she is still  
6 deciding here. Thank you so much for volunteering, if  
7 you will come up and take the seat on my left. Are you  
8 right handed.

9 MS. KIFFMEYER: Either hand will do.

10 MS. NIGHSWONGER: Thank you so much.

11 The next thing on our agenda here, and I  
12 think all of you got an agenda I hope. They were in  
13 your books. If you need an agenda please raise your  
14 hand we can get you one for today's meeting. As we look  
15 down over the agenda we are going to do a little bit of  
16 Board business here. And then following that we will  
17 move into some presentations from the EAC.

18 If we can move ahead with the agenda the  
19 chair will entertain a motion to adopt the agenda if we  
20 could first.

21 MS. BARTHOLOMEW: I so move.

22 MS. NIGHSWONGER: All in favor?

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1 ( Aye).

2 MS. NIGHSWONGER: Opposed? I hear no opposed,  
3 okay. The Aye's have it and we have an agenda.

4 As for the minutes in your book, behind Tab 4  
5 I believe it is we have a synthesis of the Denver  
6 meeting. I don't know about you but I probably would  
7 like to look over those a little bit. And I was  
8 wondering if we can postpone talking about the minutes  
9 until tomorrow sometime. That would give you tonight  
10 to look over the minutes of the synthesis of what was  
11 done in the Denver meeting.

12 I think that would be better. There is quite



13 a lot for you to read after just picking up your books.  
14 So we will postpone that on the agenda until tomorrow  
15 that would work better.

16           okay. You all have your books. And I think  
17 the books are pretty self explanatory. Everything is  
18 tabbed and put together very nicely. So we will be  
19 working from the agenda. As you notice all of the  
20 presenters have information in our books. And you will  
21 find them behind the tabs as indicated in your book.

22           Right now we do have some discussion about

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1 our bylaws when we were in Denver last year as many of  
2 you probably remember. And we actually adopted our  
3 bylaws when we were in Denver. But I am going to ask  
4 Kevin Kennedy if he would come up. Kevin worked on the  
5 original bylaws committee, or whatever that committee  
6 was called, when we were trying to establish bylaws.  
7 And I would like him to give us a brief presentation on  
8 sort of what is going on and the history.

9           I know many of you are new to our Board  
10 because someone has left and you have been appointed  
11 to this position and you may not even know some of the  
12 things that have gone on in the past. So Kevin if you  
13 would just give us a brief presentation about that I  
14 would appreciate it.

15 MR. KENNEDY: Thank you. First I would like  
16 to welcome Peggy to this new position. And challenge her  
17 during the course of this meeting to pronounce the name  
18 of the New Mexico Secretary of State and the Travis  
19 County clerk (laughter).

20 MS. NIGHSWONGER: I have been working at it.

21 MR. KENNEDY: The minutes-- I'm sorry. The  
22 bylaws are set up behind Tab 2. And as Peggy said were

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1 adopted at the last meeting. The minutes provide a  
2 very good summary of the fact that we had three motions  
3 to change those bylaws. All three of those bylaws  
4 failed. So what you see in front of you are the bylaws.

5 I would like to draw your attention to a few  
6 sections of that so that your familiar with it because  
7 as a new organization. I think this tells you how we  
8 are going to operate. It is a point of reference.

9 One of the motions that failed dealt with  
10 Section 23 on authority, page one on how to treat non  
11 partisan members of the Commission of the Standards  
12 Board.

13 I'd also want to make sure you are familiar  
14 with the Procedures of Nominating of new members of the  
15 Board, members of the Executive Board that are set out  
16 on page 2 of the materials under Section 4.

17 Section C of the bylaws themselves, the  
Page 60

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18 chair, on page 3 certain duties of a client, we have  
19 two standing committees according to the bylaws. One is  
20 a nominating committee. So there will be some action on  
21 that towards the end of the year. And our President  
22 will appoint a Chair for that committee and the Board

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1 will find members.

2           The same is true of the bylaws committee. A  
3 chair will be appointed in the interim. And committee  
4 members will volunteer for that. That is in Section 4F,  
5 on page 3.

6           The final thing we had some questions that  
7 failed at the last meeting dealing on how we establish  
8 quorum. And whether or not we use proxy votes. And if  
9 you look at Section 5-- I'm sorry, Section 6 on page 8  
10 it describes the voting procedures.

11           Section 7 proposes how we handle the actual  
12 bylaws for the committee. And with Section 7 I will  
13 point out the committee wants us to establish and be  
14 charged with developing a forum. My experience of  
15 working with this group in the last year in putting a  
16 these bylaws together is that there is no shortness of  
17 ideas on how to come up with rules and regulations. One  
18 of the proposals is there will be a sample form so that  
19 we can have a very orderly process in doing this.

20 I think it is very important for all of the  
21 members to take the time to review the materials that  
22 are on pages one through ten before the next meeting,

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1 if you have ideas on changes to the bylaws. In terms of  
2 that my guess is that the Bylaws Committee will have a  
3 form in place.

4 And what I would like to do for my final  
5 comment before is there any questions is to point out  
6 these initial set of bylaws would not have happened if  
7 it were not for Joanne Armbruster, Bill Campbell, Tonni  
8 Bartholomew, Howard Sholl all made dedicated attempts  
9 to review these bylaws, make suggestions and edit the  
10 initial document that was put together by Julie  
11 Horowits (sic) so with that unless there are any  
12 questions that is mu summary.

13 MS. NIGHSWONGER: I think I might before take  
14 questions from the floor. I think a little apology to  
15 the Executive Board I believe we asked for people who  
16 had an interest in working on the bylaws committee to  
17 indicate that somehow while we were at the Denver  
18 meeting. And we never really formally asked for that.  
19 So I would just indicate that right now that if you  
20 want to look at our bylaws and propose any changes we  
21 do need a committee to work on that. So I would really  
22 like you to let me know if you have any interest in

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1 doing that because I think it is out job to appoint a  
2 Bylaws Committee. Seven members?

3 MR. KENNEDY: Seven members.

4 MS. NIGHSWONGER:

5 So if you have an interest on working on bylaws I  
6 would really challenge you to let me know that. You can  
7 email me. My email address is in the book. And I would  
8 be happy to hear you about that. Any questions for  
9 Kevin?

10 MS. Nighswonger: One thing that I failed to  
11 mention. It was just a little housekeeping thing. In  
12 the book where the members are listed. Behind Tab 3. I  
13 want you all to really take a good look at that list  
14 and also the bios for all of the members of the  
15 Standards Board because I think there are some people  
16 who thing that maybe they were left out, or maybe their  
17 bio isn't correct, or it is an old one. Anyway please  
18 look at that while you're here at this meeting and make  
19 sure that everything on your information is correct.  
20 Read your bio. And if there are any changes to anything  
21 on that page or in that section I would suggest you get  
22 hold of Adam. You can email Adam at the EAC and he will

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1 get those changes made before we send out anymore  
2 mailings or meet again. So it you will take a look at  
3 that that will be great.

4           Okay. I think I would like to call  
5 Commissioner Martinez to the front again. He is going  
6 to review and present the Standards Board charter. And  
7 we can talk about that little bit.

8           MR. MARTINEZ: Thank you, Madam Chair.

9           One person, and actually I believe you have  
10 heard his name over and over again, but needs to be  
11 properly introduced is Adam Ambrosi(sic) who is my  
12 special assistant and who had helped to pull together  
13 all of the logistics and all of the preparations for  
14 this meeting. He has done a terrific job. He did it in  
15 Denver. Adam is your point of contact for anything that  
16 you need. He will be floating around here for the next  
17 couple of days and will be available to help in any  
18 way. So that is who Adam Ambrosi is.

19           The Charter that we took up, the Federal  
20 Advisory Act, governs advisory committees to Federal  
21 agencies. It requires that we adopt a charter in the  
22 next couple of days.

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1 MS. NIGHSWONGER: If you don't have a copy of  
2 the charter it is outside on the table.

3 MR. MARTINEZ: Adam can you get a stack of  
4 copies and make them available.

5 MS. NIGHSWONGER: Maybe we can them pass out.

6 MR. MARTINEZ: Right.

7 MS. NIGHSWONGER: I am sorry. I meant to do  
8 that.

9 MR. MARTINEZ: Yes i should have done that.  
10 But we have them up front and Adam will get a stack and  
11 walk down the center isle here and pass them out.

12 The Charter, Madam Chair, is required under  
13 the Federal Advisory Committee Act and it essentially,  
14 I have a copy of one in front of me this is the Charter  
15 that governed the authority of this Advisory Committee  
16 for the past two years. And it simply has to be  
17 readopted. It is required to be readopted. And we  
18 readopt it every two years. And you have reached the  
19 two year mark.

20 Essentially the Charter reiterates it just  
21 takes the authority and responsibilities that come  
22 straight out of our governing statute which is the Help

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1 America Vote Act puts it into a Charter type of format  
2 and says, here are your responsibilities, here is how  
3 we are going to carry out those responsibilities. It a  
4 s pretty straight forward document. And we will ask  
5 that you all will allow for the Charter to be adopted  
6 once again.

7 And, Madam Chair, of course, if there is any  
8 questions or if there is a desire to wait until your  
9 plenary session tomorrow in case anybody has any  
10 questions or concerns obviously I don't think that is a  
11 problem from our perspective. It is just before you  
12 leave here at the close of business tomorrow we  
13 obviously need to readopt your Charter. As it is now  
14 about to expire. Thank you. Back to you Madam Chair.

15 MS. NIGH SWONGER: Thank you, Commissioner. I  
16 need a motion.

17 MS. VIGIL-GORON: Rebecca Vigil-Gorom from  
18 the State of New Mexico. I make a motion for adoption  
19 if there is no objection from the other members.

20 MR. KENNEDY; I will second that motion. I am  
21 Kevin Kennedy.

22 MS. NIGH SWONGER: All in favor?

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1 (Ayes from the audience).

2 MS. NIGH SWONGER: Opposed? Motion carries.

3 MR. MARTINEZ: Thank you very much.  
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4 MS. NIGHSWONGER: I'm sorry. I am out of  
5 order. We did not have discussion. Too late the motion  
6 carried.

7 would like to introduce my secretary, Joe  
8 Meyer. I am so nervous about this you all conduct  
9 these meetings a lot on a local level. This is not  
10 like we do in Wyoming. We take a sot gun and when  
11 someone is out of order we just shoot it. (laughter) I  
12 guess that would go over big here.

13 Okay. Next item on our agenda is the  
14 election of our Executive Board vacancy. With Mike  
15 leaving that left a vacancy on the Standards Board and  
16 on the Executive Board. Now when we went to figure out  
17 how to figure out how to fill this vacancy nothing was  
18 very clear about that in our Bylaws. So there is  
19 something for you to do.

20 So what the Board talked about-- many of you,  
21 or all of you, should have received emails from Adam  
22 with the names of the people who are interested in

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1 filling that vacancy. What the Executive Board talked  
2 and decided to do because we didn't have a nominating  
3 committee either, which is something that we need to  
4 appoint and get a nominating committee before our next  
5 meeting. We decided to go ahead and throw that out for

6 people to put their names in for that position. We did  
7 have four people that showed interest for that  
8 position. And I believe Adam set their bios out, that  
9 are over there on the table. That is another thing that  
10 is on the table. So if you don't have them with you  
11 maybe raise your hand and we can get you a copy of that  
12 also.

13           what we decided to do is take these names-- I  
14 would like the four people who did submit their names  
15 and their bio to give us a two or three minute  
16 introduction to themselves so that we will know their  
17 face and know who they really are. And I am going to  
18 give them that opportunity. And then we would like to  
19 pass out a paper ballot. And we are going to let all  
20 the voting members vote for one person that he would  
21 like to fill this vacancy on the Executive Board. And  
22 we have a very responsible Counting Board that is going

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1 to handle those ballots for us. Did everyone get a copy  
2 of the bios?

3           MR. CAMPBELL: Can I say something?

4           MS. NIGHSWONGER: Yes, Bill, you can say  
5 anything that you want.

6           MR. CAMPBELL: The bylaws do provide a method  
7 by which a method is filled. And that is the Executive  
8 Board Interim appointment. But we, as an Executive

9 Board, have discussed this. We took the message and  
 10 hold closely the message that we received when we were  
 11 first appointed or elected as an Executive Board and  
 12 that is we never want the full Board to feel that we  
 13 are trying to usurp any authority. And although you  
 14 have delegated it to us we decided the best practice  
 15 although it was only a four or five month period was  
 16 actually wait to hold the position vacant and have the  
 17 full election take place today.

18           So the by laws do have a provision that it  
 19 didn't have to have sufficient information to allow us  
 20 to set up that election today. We have a Nominating  
 21 Committee and deadlines to next February. So I hope you  
 22 understand how we got here and how we tried to limit

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1 the selection process without limiting the selection  
 2 process and that the Bylaws Committee will know that  
 3 one of their first tasks is to try to work out how this  
 4 interim election will be can be made.

5           MS. NIGHSWONGER: Secretary Markowitz?

6           MS. MARKOWITZ: I am sorry for not thinking  
 7 about this morning at our Executive Board meeting  
 8 preparing for this today. But under Roberts Rules in  
 9 order to have a paper ballot for elections we need to  
 10 have a vote to do so. So I will actually so move.

11 MS. NIGHSWONGER: It is in the regular bylaws  
12 already.

13 MS. MARKOWITZ; Oh, good so it's in the  
14 regular bylaw. But thank you. Anyone else on our board  
15 want to make any comments about how we came to this  
16 process?

17 Okay. If not I'd like to introduce the four  
18 people. And if you would just step to the microphone.  
19 First I am going to call Carol Johnson who is the  
20 Deputy City Clerk from Manchester, New Hampshire.  
21 Anything you want to say, you can tell us about  
22 yourself.

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1 MS. JOHNSON: Good afternoon, my name is  
2 Carol Johnson. I am from Manchester, New Hampshire and  
3 I am the local election official. I have been in this  
4 municipal business for 29 years, hopefully I don't look  
5 it. So I have been around for a while. I am a certified  
6 municipal clerk. I have been involved in the City  
7 Clerk's Office since 1988. It was not my first  
8 introduction to elections but that is where I started  
9 helping run them for the city.

10 I guess somebody said to me very nicely in  
11 the hallway a little while ago that with every great  
12 act there are some unattended consequences which is why  
13 I responded to the email.

14           My bio is not contained in the book which is  
15 why I am mentioning that although I have been around  
16 for a couple of years. I am a certified municipal  
17 clerk. I have worked as the mediator, if you will, with  
18 the state and a lot of local election officials in the  
19 process of delving out the processes that Howard has  
20 brought us.

21           And the reason for responding to all of that  
22 was I think local election officials are the ones that

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1 frequently advise state because we are in the nitty  
2 gritty and we are in with the details of it. And we  
3 frequently work with other municipal and local election  
4 officials and help get through the process in a  
5 positive manner which is not always easy talk but  
6 usually we can get there.

7           The Standards Board is very much that. It is  
8 in an advisory capacity but the devil is in the detail.  
9 And I think this is the Board that needs to focus on  
10 those details for the EAC. So with that I will part  
11 company because we have a lot on our agenda today.  
12 Thank you.

13           MS. NIGHSWONGER: Thank you, Carol. Okay,  
14 Sandi Wasolowski. I hope I said that correctly Sandi is  
15 the Franklin City Clerk. She is from Franklin,

16 wisconsin.

17 MS. WASOLOWSKI: Thank you. I am Sandi

18 Wasolowski. You pronounced it pretty close.

19 I am the Director of Clerk Services, City  
20 Clerk for the city of Franklin, Wisconsin. As a local  
21 election official election official I represent 1850  
22 local election officials in the state of Wisconsin. I

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1 have been involved in the administration of election  
2 since 1976. So for some 30 years that has been my  
3 desire my strong field.

4 I have been on the Standards Board since its  
5 inception. I briefly was the State of Wisconsin  
6 elections director and HAVA coordinator. I was-- I  
7 returned to the city of Franklin after a new months of  
8 doing that for the state. The weather in Washington has  
9 taken my throat and voice.

10 You can see on the bio that I have been  
11 involved with the state of Wisconsin HAVA State Plan  
12 Committee. I was a former member of the SVRS, the State  
13 Regulation Administration Steering Committee. I was-- I  
14 am still on the Standards Board for the state of  
15 Wisconsin. I am a member of the International Institute  
16 of Municipal Clerks. I am also a member of the  
17 Wisconsin Municipal Clerks Association. I am the past  
18 president of the Metro Milwaukee Municipal Clerks

19 Association.

20 I would be honored to fill the unexpired term  
21 of Mike. And I will be brief and that is it.

22 MS. NIGHSWONGER: Thank you. You all have

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1 weird names, Ed Szczesniak, they are worse than my  
2 name Ed is from New York. He is Onondaga County  
3 Commissioner of Elections for Syracuse.

4 MR. SZCZESNIAK: Thank you. Good afternoon.

5 The reason I responded positively I was  
6 selected and I was honored by back in 2003, January, to  
7 be selected to be as a local official on this Standards  
8 Board.

9 What I have attempted to do over the years is  
10 attend every meeting and be as active as I can in this  
11 particular group. I think it is a meaningful role for a  
12 very meaningful organization, the Election Assistance  
13 Commission in terms of the revolutionary impact it is  
14 having on elections administrations across this  
15 country.

16 Being from New York as you see I feel a  
17 little overwhelmed by three women and myself on this  
18 floor of candidates here. But what I want to say  
19 is rather than read through all my notes I have been  
20 involved in all levels from the local town level as a

21 candidate, as a party official right through county  
22 level, state level and national level in terms of

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1 involvement in the party as well with elections.

2 I think I have a fair understanding what it  
3 looks like at the County level. And I happen to be from  
4 New York State. But we have had the distinction of  
5 being the only state that has had DOG lawsuit against  
6 it to enforce HAVA. And I won't take responsibility for  
7 the lawsuit. But I know the difficulty that you all  
8 are going through in terms of trying to make this work.  
9 And the time lines that Congress has set for us to try  
10 to make this work.

11 I think that participating in things like the  
12 Standards Board goes a long way toward making sure  
13 everyone understands how things are happening at the  
14 local level to make this thing happen. I think our  
15 mission, if there is one, is to have a can do attitude  
16 to make this system work whether it is through Best  
17 Practices or whatever. We can share that knowledge and  
18 do it right at the county level as well as the State  
19 level and of course it all becomes the Federal level.

20 So with that I would honored if you would  
21 consider me to be the replacement for the unexpired  
22 term. Thank you very much.



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1 MS. NIGHSWONGER: There are other people  
2 trying to get rid of met to.

3 Last but not least Tonni Bartholomew, is the  
4 City Clerk of Troy, Michigan.

5 MS. BARTHOLOMEW: Thank you very much for  
6 letting me have this opportunity to speak to you. I too  
7 am very interested in this Directors position on the  
8 Executive Board. I am a local clerk for a Municipality  
9 of about 90,000 people. I do everything from recruit  
10 people to code the devices. I have been involved at  
11 various levels in the State. I do instructions for the  
12 MNL as well as the Michigan Tactical Association and I  
13 have been involved on various advisory boards for the  
14 state of Michigan. I am currently Voter File Advisory  
15 Board. I was on the JEC for the State Devices for the  
16 State of Michigan.

17 If you talk to people from Michigan they will  
18 say I am a very detailed person. I am all about all  
19 about code standards and laws and if it says do it they  
20 we do it. I think I can lend that kind of expertise  
21 from my experience which I am much older than I look, I  
22 have been involved with elections since 1986,'87. And

1 I would really like the opportunity to serve you and  
2 serve the people of the United States.

3 MS. NIGHSWONGER: Thank you, Tonni. How many  
4 of us can say we are older than we look?

5 okay. If there is no objections we will  
6 proceed with the lucky new candidate to join us on this  
7 Executive Board. Oh yes, did we get the ballots past  
8 out? would you pass the ballots out please and while  
9 you are doing that I want to remind you to vote for  
10 one, please do not over vote or under vote, vote for  
11 one. And if you can you can fold your ballot in half  
12 once. I am going to have Sarah and John collect the  
13 ballots. Sarah I am going to ask you to take this side  
14 of the room, on my right. John if you will collect the  
15 ballots on the left side of the room please. Todd would  
16 you like to get the map? So if you will mark your  
17 ballot and fold it in half they will pick up your  
18 ballot. And then we will have a group of people who  
19 will be counting the votes and we will announce to you  
20 on one of our breaks who the lucky person is.

21 Oh, yes, is there anyone in the room that did  
22 not respond to the first roll call? That is one thing I

1 want to ask you. Julie as been running around trying to  
2 track down her luggage. That is always a hard thing.

3 Sara John and Todd are going to be picking up  
4 the ballots and I would like to remind you that voting  
5 members only will be marking the ballots. Polls are  
6 officially closed.

7 Again I would like to remind you before we  
8 close this session of our meeting I would just like to  
9 remind you if you are interested in serving on a  
10 nominating committee before the next meeting we will  
11 have to utilize a nominating committee in order to  
12 get-- Phil I believe there are two more positions on  
13 our Board that will be vacant by people-- Oh, three?  
14 One State and two local. If you're interested in  
15 serving on a nominating committee I would appreciate  
16 getting information about that so we can do this  
17 process appropriately at our next meeting.

18 Thank you so much. And we will move on into  
19 the next portion of our meetings. If I can get  
20 Commissioner Martinez' attention. He is in the hallway  
21 there. We will move on to our next report on Getting a  
22 report on Provisional Voting. So will the panel who

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1 going to be talking on Provisional Voting if you can

2 come on up here we will give you our seats.

3 MR. MARTINEZ: We will move into our next  
4 presentation. We are, by my watch, about 11 minutes  
5 off schedule right now. So we will make up the time  
6 during break, or at some point we will figure out how  
7 to do that. I know some of you had plans after the  
8 meeting is over to get out of the hotel and so forth.  
9 So we will try to honor our agenda as closely as  
10 possible.

11 Out next pane will give us an important  
12 presentation on Provisional Voting. The Help America  
13 Vote Act requires as all of you know that the EAC at a  
14 minimum consider the development of voluntary guidance  
15 on any of the Title 3 requirements the Title 3  
16 requirements of course for those of us with voting  
17 systems that require section 301, State wide  
18 voter Registration Voter Data Basis and Voter ID for  
19 certain voters that are in Section 303 and Section 302  
20 which is Provisional Voting and Poling Place Signage.  
21 So in looking at that mandate that the EAC developed  
22 Voluntary Guidance on Provisional Voting, we felt we

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1 needed to commission some sound research and analysis  
2 on the issue of provisional voting.

3 We turned for that task to the Eagleton--  
4 Tom, forgive me is it Eagleton Institute, yes, I almost

5 lost it there, at Rutgers University. And in turn  
6 Eagleton Institute also brought in Moritz School of Law  
7 at the Ohio State University and thus we have Professor  
8 Edward Foley.

9 Tom O'Neil is the Project Manager, the lead  
10 consultant, if you will, to the EAC for the study that  
11 has been conducted on provisional voting. They will  
12 give you the details. We have been working with Tom now  
13 for perhaps the last eight or ten months perhaps longer  
14 than that. Lots of discussions about the issue. Tom  
15 will present, as well as professor Ed Foley who is the  
16 director of Election Law at Moritz program, an expert,  
17 well known national expert on election law issues  
18 covering the whole gamut of election law from  
19 redistricting to election administration.

20 We are very pleased to have their  
21 participation in this project. And particularly please  
22 to have them here today to present the draft product of

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1 what they have been working on and to answer your  
2 questions. What we have asked our presenters to do is  
3 give you an audio visual presentation that will be  
4 short and to the point we hope. After which our counsel  
5 Julie Thompson-Hodgkins is here. She is listed as the  
6 resource person and she will lead the discussion upon

7 the end of the presentation. And we hope that you will  
8 be-- that you will not be shy in asking questions and  
9 give us your opinions and advice on the work product  
10 you are about to hear about.

11 With that, Tom, I will give you the podium  
12

13 DISCUSSION: DRAFT REPORT ON PROVISIONAL VOTING

14 Presenters: Thomas O'Neill, Provisional Voting/ Voter  
15 Identification

16 Tim Vercellotti, Eagleton Institute.

17 Edward Foley, Election Law @ Moritz School  
18 of Law .

19 MR. O'NEIL: Thank you Commissioner Martinez,  
20 I am happy to be here. We regard the presentation we  
21 are making at this meeting as phase of our research. We  
22 are going to be presenting our final draft, report and

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1 recommendations. And we hope that it will elicit from  
2 you comments and questions that will become part and  
3 parcel of our research efforts to understand the  
4 dynamics of provisional voting in 2004 and going  
5 forward. And we hope that the states have much to learn  
6 from one another in the provisional voting process and  
7 that we can do something to act as a catalyst in that  
8 mutual learning exercise that all of you are engaged in  
9 here as members of this Board.

10           As as Commissioner Martinez said we are  
 11 looking at provisional voting. We have been working on  
 12 this project just shy of a year. And today you're to  
 13 going to the see sum of what we have concluded and our  
 14 recommendations to the EAC. In term what we are  
 15 recommending to the EAC is that they make  
 16 recommendations for Best Practices to States and  
 17 localities to improve the functioning of the  
 18 provisional voting system.

19           Commissioner Martinez described the parties  
 20 that are doing this, the Eagleton Institute of Politics  
 21 at Rutgers State University in New Jersey, the Moritz  
 22 College of Law at the Ohio State University which is

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1 well known for the website it maintains on election law  
 2 all around the county.

3           Ed Foley and I are happy to be up here on the  
 4 podium but we represent a larger group. This is the  
 5 project management team. The principal investigators  
 6 Dr. Ruth Mandel, the Director of the Eagleton Institute  
 7 of Politics. With us here today, from the Project  
 8 Management Team, are Ingrid Reed, Ansa Cadgie from the  
 9 Moritz College of Law and one of our lead researchers  
 10 Tim Bersollti, Assistant Director from the Center of  
 11 Public Interest Polling that undertook the survey of

12 local election officials on which some of our findings  
13 are based.

14 We proceeded by looking at six questions that  
15 the EAC raised with us. And those questions are  
16 displayed on this slide they are basic, they are  
17 important and some of them I have to tell you are very  
18 hard indeed to answer.

19 How do states prepare for HAVA's  
20 Provisional Voting Requirements?. How did preparation  
21 and performance vary between states that previously had  
22 some form of provisional ballot and those that did not?

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1 we will be coming back to that issue several times via  
2 this report. And so we have developed a short hand for  
3 it. We call them Old states and New States. And I hope  
4 you will bear with me. If you come from one of those  
5 Old States we don't mean it personally.

6 How did litigation effect the implementation  
7 of provisional voting? How effective was provisional  
8 voting in enfranchising qualified ? Did state and  
9 local processes provide for consistent counting of  
10 provisional ballots? Did local election officials have  
11 a clear understanding on how to implement provisional  
12 voting?

13 To answer those questions we undertook  
14 several steps. Our aim being throughout this to provide



15 the EAC with a strategy to engage the states in a  
16 continuing effort to strengthen the provisional voting  
17 process and increase the consistency, this is  
18 important, increase the consistency by which  
19 provisional voting was administered. Particularly  
20 consistency within the State as opposed to consistency  
21 on the States.

22 we surveyed 400 local election officials. We

□

91

1 reviewed the EAC election day survey. We analyzed the  
2 states experience with provisional voting mostly on a  
3 statistical basis. We collected the provisional voting  
4 statutes and regulations for each State in the country.  
5 And in fact part of our deliverables to the EAC was a  
6 continuum of those statutes and regulations. And they  
7 will all be on one CD rom for easy access. And we  
8 analyzed the litigation that took place concerning  
9 provisional voting issues in 2004.

10 summary of findings, again looking at this  
11 consistency issue which is so important. There was  
12 considerable variation among the States. HAVA allows  
13 the States considerable latitude in how to implement  
14 provisional voting including deciding who beyond the  
15 required categories of voters should receive  
16 provisional ballots. And how to determine which

17 provisional ballots should be counted. We had just shy  
18 of two million ballots cast in 2004 and 63 percent of  
19 them were counted.

20           Now the variation of among the States is  
21 enormous. The percentage of provisional ballot in the  
22 total vote varied by a factor of a thousand. From as

□

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1 high as seven percent in Alaska to Vermont's six one  
2 thousands of one percent. Now that's like the lobster  
3 production between Maine and Utah. You don't find that  
4 large a difference among States on measures like this.  
5 So there is an enormous variation.

6           And the portion of the provisional ballots  
7 counted varied significantly from 96 percent in Alaska  
8 to 6 percent in Delaware. We don't need to tell you is  
9 that the percentage of total votes cast rises in terms  
10 of provisional votes being a greater that becomes more  
11 and more significant in closer elections. If the  
12 election margin of victory is two percent but seven  
13 percent in provisional ballots that is a very  
14 different scenario than if one percent was of ballots  
15 are provisional but the victory was ten percent.

16           There are some sources of the variation among  
17 the States. Number one that jumped out at us was  
18 experience. The share of provisional ballots in the  
19 total vote was six times greater in States that had

20 used provisional ballots before than in States where  
21 the provisional ballot was new before.

22 MR. VERCELLOTTI: It is good to be an old

93

1 State.

2 MR. O'NEILL: In the 25 states, 25 States  
3 that had experience with provisional balloting 18 were  
4 new.

5 Administrative arrangements. Simple  
6 administrative differences also I think go a long way  
7 in explaining the variation in the use of provisional  
8 ballots.

9 The time to evaluate ballots. How much time  
10 after the election do you give officials to determine  
11 whether a provisional ballot should be counted? States  
12 that provided less than a week, counted a little bit  
13 more of a third of the provisional ballots counted.  
14 States that permitted more than two weeks counted 61  
15 percent. That time factor is important.

16 And voter registration data basis. States  
17 with voter registration data basis, and there were only  
18 a few of them in 2004, counted an average of only 20  
19 percent of the provisional ballots cast. States without  
20 those data basis counted twice that number.

21 MR. FOLEY: If I can just underscore these two

22 points that you're going to hear throughout this

□

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1 presentation the importance of both of them. In other  
2 words the time to evaluate the ballots increasing the  
3 the accuracy is a very important finding. And it leads  
4 to an issue on how to trade off the value of accuracy  
5 verses speed or completeness of finality of the  
6 election. And we will be talking ore about that.

7 Likewise another theme that will run  
8 throughout this presentation is the important  
9 relationship between the provisional voting system as  
10 one component of an overall election system with the  
11 registration data basis. Those two subsystems if you  
12 will are very much integrated as you know.

13 And they will be increasingly integrated  
14 under HAVA and under centralized voter data basis.

15 MR. O' NEILL: Now turning from looking at  
16 variation across States to variation within States.

17 We gathered county election-- provisional  
18 ballot data for 20 States. Had we been able to get data  
19 from all of the States at a county level the ranges and  
20 variation I am reporting to you might be wider than  
21 what we found. So bear that in mind. The rate of  
22 counting provisional ballots within the same State

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1 varied by as much as 90 to 100 percent among counties  
2 in the State. The resources available to administer  
3 provisional voting varied significantly within the same  
4 State.

5           The election day study found that staffing  
6 problems appeared to be particularly acute in  
7 jurisdictions in the lower income and education  
8 category. Small rural jurisdictions, large poor urban  
9 jurisdictions have higher rates of inadequate training  
10 for poll workers. The jurisdictions in poorer areas  
11 reported more inactive voter registrations and more  
12 provisional ballots cast. Richer areas had more poll  
13 workers per polling place and reported lower rates of  
14 staffing problems per precinct.

15           There are other effects that go beyond what  
16 is going on at the State other than socio-economic. Some  
17 reports from the States suggest possible sources of  
18 lack of consistency. You know Iowa cast some  
19 provisional not signed in the assigned precincts. Even  
20 thought the States policy was to count only those  
21 ballots cast in the correct precinct. So you could see  
22 how that would enlarge the variation among counties in

□

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1 the percentage of provisional votes that were cast.  
2 similar kinds of free lancing were going on in  
3 Washington state.

4 MR. FOLEY:: Another theme that we found.  
5 There is a difference between the rules on the books  
6 and the rules as they were enforced in practice. And  
7 that obviously is of concern potentially in respect to  
8 litigation when we get to that point.

9 MR. O'NEILL: Turning to from this sort of  
10 summary in terms of what the variation was all about to  
11 some of the details of the answers we developed in each  
12 of the questions that were put to us by the EAC.

13 First how did States prepare for the  
14 provisional voting requirement? Most election  
15 officials we talked to in our survey received  
16 provisional voting instructions from State government.  
17 But the type and amount of that instructions varied  
18 very widely across the States. Almost all of them  
19 provided training or written instruction to precinct  
20 public poll workers. Only in about one in ten made  
21 available to poll workers the voter registration data  
22 base. Equally rare was training or written procedures

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1 for poll workers to understand how provisional ballots  
2 would be evaluated.

3           Second question, how did preparation and  
4 performance vary between States, the old States and the  
5 new States? The local election officials in the old  
6 States felt more confident about exercising their  
7 responsibilities for provisional voting. As we earlier  
8 18 States were new to provisional voting, 25 others had  
9 experience.

10           The New State officials I thought they did  
11 not receive enough information more frequently and felt  
12 and felt more funding was necessary to educate voters  
13 about, their rights to cast a provisional ballot.  
14 Ballot .

15           Local Officials in the old states counted  
16 more ballots, were better prepared to direct voters to  
17 their correct precincts with maps and other types of  
18 information. And regarded provisional voting as easy to  
19 implement.

20           Officials from new states were more likely to  
21 believe that voters needed more information where to  
22 vote and to feel that provisional voting created

□

1 unnecessary problems. There was much less if a response  
2 than from officials in the old states.

3 MR. FOLEY: One could abstract from that  
4 provisional voting is a dynamic process. It is not  
5 static, it's not that HAVA created provisional voting  
6 and now we have it and we are done. There is a learning  
7 curve here. It is not an all or nothing situation.  
8 There are shades of gray involved. Sometimes it is sold  
9 as a safety mechanism, or fail safe. But the ability  
10 for it to perform as a fail safe is dependant on  
11 various factors. It's not automatic.

12 MR. O'NEILL: Question three: How did  
13 litigation effect the implementation of provisional  
14 voting?

15 Litigation before the election clarified  
16 voters rights. To sue in federal Court to remedy  
17 violations of HAVA; to receive provisional ballots even  
18 though they wouldn't be counted; have the voters be  
19 directed to the right precinct. And most of the  
20 litigations occurred to late to influence how states  
21 implemented provisional voting in the year 2004. Even  
22 with that finding I think it is a fair assessment to

1 say that pre election litigation was more successful in  
2 changing the dynamic of at least the rules. And to  
3 clarify what the rules were going into election day.  
4 And therefore could be perceived as having some utility  
5 in the process. Post election litigation only invited



6 more complexity, more problems, more uncertainty and  
7 usually unsuccessful from the litigants perspective and  
8 obviously for complicated from the administrative  
9 perspective as well.

10 How effective was provisional voting in  
11 enfranchising qualified voters?

12 And I suggested at the outset some of theses  
13 questions were very hard to answer. And this was among  
14 the hardest. To know the answer to how effective was  
15 provisional voting in providing that fail safe that Ed  
16 just mentioned and you show up and your not on the  
17 registration rolls how effective is getting that  
18 provisional to you? Ideally to know that we have to  
19 know the decisions that were made in 200,000 precincts  
20 around the country. And we would have to know the  
21 criteria that the evaluators of provisional ballot used  
22 when the process came to them to decide which ones

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1 counted and which ones didn't. And there is a  
2 considerable element of individual eccentricity in  
3 making these decisions. It is hard to predict and  
4 therefore we had to look for a more abstract way to  
5 have some kind of number to attach effectiveness. If  
6 that batter hits the ball one third of the time as it  
7 comes across the plate it is .333. So we are aiming for

8 something not quite as precise as Ted Williams 405 but  
9 something that would at least put us in the order of  
10 magnitude.

11 we know that 1.2 million voters, or about  
12 one percent of the turnout, got to vote by provisional  
13 ballot who otherwise would have been turned away. But  
14 what is the denominator of that? What do you divide  
15 into? Well in 2000 the CalTech MIT voting technology  
16 estimated that two and a half million to four million  
17 votes were lost in the 2000 Presidential election  
18 because of registration mix ups or confusion at the  
19 polling place.

20 Now registration mix up and confusion at the  
21 polling place are pretty good description of what is  
22 going to put someone in the line for provisional ballot

□

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1 instead of to get on the regular machine. So 1.2  
2 million voters casting a provisional ballot and maybe  
3 two and a half to three million figure in the number of  
4 them who were there but didn't get one, we figure that  
5 provisional balloting might just have been 50 percent  
6 effective in 2004. It's an approximation but it  
7 indicates something I think we all will agree about  
8 which is there is room for improvement.

9 Indeed legislative activity in the states  
10 following the 2004 election leads us to believe that

11 the states themselves recognized that they were not  
12 satisfied with the effectiveness of their provisional  
13 voting systems and made efforts to improve that through  
14 legislation.

15           Question five: Did state and local processes  
16 provide for consistent counting of provisional  
17 ballots?

18           Again this is a topic of considerable  
19 interest. As we have already talked about there was  
20 little consistency among states and within states. That  
21 the use of provisional ballots was not distributed  
22 evenly across the country. In fact six states accounted

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1 for two thirds of all the provisional ballots cast. The  
2 share of provisional ballots in the total vote was six  
3 times greater in experiences states than in new states.  
4 The more rigorous the state's voter ID requirements the  
5 smaller percentage of provisional ballots that were  
6 counted. And new states with registration data bases  
7 counted 20 percent of the ballots past. Those without  
8 data bases counted more than double that rate, 44  
9 percent.

10           MR. FOLEY: And I can add to that. The most  
11 common reason why a provisional ballot was not counted  
12 in most states it was reported that the provisional

13 voter was not a registered voter. That was the reason  
14 given. What is poorly understood unfortunately at this  
15 point is what underlies the reason why that voter was  
16 not registered according to the system, yet that voter  
17 attested that to believing he or she was registered by  
18 HAVA. And what our research has shown, as Tom just  
19 suggested, is that there is a considerable variation  
20 both among states and within states as the method for  
21 checking whether or not the provisional voter is  
22 registered.

□

1           The methods and the processes that the system  
2 uses to try to verify whether this ballot should count  
3 varied considerably. And there is very little rule  
4 guidance as to what that methodology should be.

5           So an important part of our presentation  
6 today is the need to better understand that and to  
7 develop more guidelines. The theme here is there is  
8 just a lot of difference just about the mechanics on  
9 how to go about determining whether this voter is even  
10 an eligible.

11           MR. O'NEILL: Continuing on with the  
12 consistency question.

13           States that allowed out of precinct ballots  
14 counted 65 percent of the provisional ballots cast.  
15 States that recognized only ballots cast in the proper

16 precinct counted 42 percent. In old states the  
17 difference was greater than that 52 percent were  
18 counted in states requiring new district ballots and 70  
19 percent were counted in those allowing other precinct  
20 ballots.

21           This aspect of the consistency issue takes us  
22 back to the time question. Fourteen states permitted

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1 less than a week to evaluate provisional ballots, they  
2 counted 35 percent of the ballots. Fifteen states  
3 between one and two weeks, they counted 47 percent of  
4 the ballot. And 14 states that permitted more than two  
5 weeks they counted 61 percent of the ballots. Just the  
6 administrative handling of the ballots makes a  
7 difference in the performance of the state.

8           Conclusions with this? The states have  
9 latitude on how they meet under the HAVA requirements.  
10 A considerable degree of variation among the states are  
11 to be expected. And here is the interesting observation  
12 about that. If the variation among the states reflects  
13 differences in their political cultures it is likely to  
14 persist. If it reflects a learning curve for the new  
15 states figuring out how to do this provisional ballot  
16 thing then consistency among the states is likely to be  
17 achieved much more quickly than if some states have a

18 fundamental philosophic objection to the concept of the  
19 provisional ballot.

20 Questions six: Did local election officials  
21 have a clear understanding on how to implement  
22 provisional voting?

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1 what we did was ask the local officials  
2 themselves to characterize understanding. From a sample  
3 of about 400 of them around the country eight out of  
4 ten reported receiving instructions from state  
5 government; four out of ten, only four out of ten I  
6 should say, felt poll workers needed more training to  
7 understand their responsibilities.

8 Moving back now from asking the local  
9 officials themselves for some kind of objective  
10 evaluation on how the process was managed. The lack of  
11 consistency among and within states indicates the  
12 differences in how our election officials understand  
13 their responsibilities and managed the 2004 election.

14 In thinking through this body of information  
15 we have to recognize the existence of inconsistency of  
16 understanding between the states and within the states.  
17 Particularly of concern are the inconsistencies within  
18 a state. And that we need to forge away to approach  
19 this as a learning experience, a way to understand and  
20 explain the rules by which each state governs

21 provisional voting .

22 And we will phrase this as a set of

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1 questions. Does the provisional ballot system  
2 distribute, collect, record and tally provisional  
3 ballots with sufficient accuracy as to be seen as  
4 procedurally legitimate by both supporters and  
5 opponents of the winning candidate. That is the acid  
6 test here.

7 Second: Does the provisional balloting  
8 system place administrative demands on local  
9 jurisdictions that are realistically related to the  
10 staff and other resources available to fulfill those  
11 demand?

12 Third: Is the variation within state great  
13 enough to cause concern that the system might not be  
14 administered uniformly from county to county.

15 MR. FOLEY: I just want to act on Tom's point  
16 about the acid test of legitimacy. The reason why  
17 clarity is so important to that is again because the  
18 provisional votes matter as you know when there is a  
19 close race and when there is a dispute about what to do  
20 with these ballots. Should they be verified or not?  
21 And if the rules for that process are unclear and  
22 disputable that casts everything in doubt. It casts the

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1 process in doubt; it casts the results of the election  
2 in doubt. So clarity is the first and most important  
3 value for bringing legitimacy to the process. Because  
4 it will be a process that unfolds after election day in  
5 the heat of the moment. And to avoid litigation, and  
6 particularly destabilizing litigation, clarity has to be  
7 the first priority.

8 MR. O'NEILL: In looking for clarity a place  
9 the states often turn to is the history of litigation.  
10 Litigation coming out of the 2004 election clarified  
11 the right of voters to receive provisional ballots even  
12 though the election officials were certain they would  
13 not be counted. And lawsuits prompted election  
14 officials to take better care in instructing precinct  
15 officials on how to notify voters about the needs and  
16 go to the correct precinct in order to cast a countable  
17 ballot. Those are the issues of clarity like we have  
18 just been discussing.

19 We recommending to the EAC that it recommend  
20 as Best Practices to states the promulgation of clear  
21 standards for evaluating provisions ballots. And  
22 provide training for the officials who will apply those



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1 ballots. we believe they should provide materials to  
2 local jurisdictions. To train polling workers on such  
3 procedures as how to locate polling places for  
4 potential voters who show up at the wrong place. And  
5 to think that the only permissible requirement to  
6 obtain a provisional ballot is an affirmation by that  
7 voter standing in front of a local election official  
8 that that voter is registered in the jurisdiction and  
9 eligible to vote in an election for federal office. And  
10 poll workers need the training to understand their duty  
11 to give those voters a provisional ballot.

12 MR. FOLEY: And on that point, on the voters  
13 affirmation, it's their sincere belief that they think  
14 that they are registered. The polling place is not the  
15 time or place to verify eligibility in determining  
16 whether the voter is correct or not.

17 And in that sense as a working rule, as a  
18 practical matter given long lines in a high turn out  
19 election, you know if a voter asks for provisional  
20 ballot they really ought to get one. Then you can  
21 figure out what to do with it later the one question  
22 that can be asked is: Do you really think you are

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1 registered? If they think they are registered they  
2 should get that provisional ballot. It should not be a  
3 complicated process to administer provisional voting at  
4 the precinct.

5           There maybe complexities that are unavoidable  
6 after election day. And again it might be best to  
7 minimize those complexities as we get into. But it is  
8 very, very important to stream line the process at the  
9 polling place itself. And so it should be virtually  
10 automatic that if a voter says: I think I am entitled  
11 to vote; that they get the provisional ballot.

12           MR. O'NEILL: We believe the general way the  
13 states can most effectively pursue improvements in the  
14 provisional voting process is to take a quality  
15 improvement approach.

16           Defining quality begins in asking how well  
17 the system works now. But figuring it out to how open  
18 it is to error, recognition and correction. And by  
19 asking how well our provisional voting process is  
20 connected to the other parts of the machine that they  
21 need to be well characterized to the registration and  
22 voter identification names. So to do all that requires

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1 a systematic quality improvement program that starts by  
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2 collecting data that is not now generally available.

3           The data collected should insure a list of  
4 the specific reasons why provisional ballots were not  
5 counted; measures of variance among jurisdictions,  
6 counties or even precincts; a hard look at the time  
7 actually required to evaluate the ballots by  
8 jurisdiction and then comparing that to what the  
9 statute or regulation allows in that state. If it is  
10 simply unrealistic what kind of changes are needed? And  
11 an accurate and timely report on provisional votes cast  
12 and counted by jurisdiction down to the precinct level  
13 so you can spot anomalies and take a look at where more  
14 poll worker training may necessary to get them up to  
15 the standard you would like the entire state operate  
16 at.

17           MR. FOLEY: Just to give an example of this.  
18 Most of you know about Washington State's experience  
19 with its gubernatorial election in 2004. That  
20 illustrated several things about this process. One of  
21 which was this issue is the provisional voter  
22 registered? And in some localities the answer came

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1 back yes, and this was not true by the way of only  
2 Washington State, this occurred in other states in  
3 lower profile races. So the answer comes down back "no,

4 we have looked at our data base, our files and we don't  
5 have this voter as a registered voter." Then the  
6 question arises well they are not in the system but did  
7 you go back to the original voter registration card and  
8 see for whatever reason that card for a new registrant  
9 was not entered in the system in the run up to this  
10 particular election? Sure enough it turned out there  
11 were a substantial number of voters in Washington  
12 state, and elsewhere, that had submitted timely  
13 registration forms; that had submitted timely  
14 registration forms; had submitted procedurally proper  
15 registration forms and they should have been in the  
16 system but were not through no fault of their own.  
17 That's the very thing that a provisional  
18 voting fail safe is supposed to protect against. But it  
19 couldn't protect against it if the only checking  
20 mechanism is to go back to the data base as opposed to  
21 going back to the original voter registration card. The  
22 reason why the poll book, the precinct official has,

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1 didn't the registered voter is because they weren't in  
2 the system to begin with. So there was a match between  
3 what the poll book said and what the system said but  
4 the misstep was getting that card entered in the system  
5 in the first place given the high volume of new  
6 registrations filed at the deadline.

7           The courts ordered those forms to be entered  
8 into the system and ordered those provisional ballots  
9 to count several weeks after the election had already  
10 be certified.

11           So here is an example of where the  
12 methodology used and the process used determined what  
13 does it mean to be a registered voter really matters  
14 which is why there has to specific standards on that.

15           And that gets into the finality point, or the  
16 timing point that we have already talked about. If it  
17 takes, five, six, eight weeks to add those hundreds of  
18 voters to the certified total you run up against  
19 serious deadlines. You have past certification  
20 deadlines. In some cases you have past inauguration  
21 deadline. You have past the Federal so called safe  
22 harbor deadline for Presidential races.

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1           So there was an ability to increase accuracy  
2 that had outcome determinative effects in terms of who  
3 was the winner of the governor's race in Washington.  
4 That final certification occurred two days before New  
5 Year's Eve. So again accuracy verses timing is a these  
6 that needs to be evaluated as you specify what are best  
7 practices for implementing the evaluation process.

8           MR. O'NEILL: The heart of this quality

9 approach for improving the provisional voting process  
10 is to access each stage of the provisional voting  
11 process. Before the election the better the voters  
12 understand their rights and obligations the easier the  
13 system will be to manage and the more legitimate the  
14 appearance of the process.

15           At the polling place? Avoiding error at the  
16 polling place will allow more voters to cast a regular  
17 ballot and all others who requested cast a provisional  
18 ballot. In the evaluation process the clarity of the  
19 criteria for evaluating voter eligibility is critical  
20 to a sound process for deciding which of the cast  
21 provisional ballots should be counted.

22           And post election we belief the best practice

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1 is for states to consider how to complete, as Ed was  
2 just saying, all the steps in the evaluation of  
3 ballots and challenges to that determinations within  
4 the five weeks available in Presidential elections it  
5 is important top provide timely information to voters  
6 about the disposition of their provisional ballot. For  
7 instance having cast a provisional ballot this time are  
8 they now registered for future elections. They should  
9 know that. If not what do they need to do to be  
10 covered?

11           As I said at the opening we look at this  
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12 briefing as an opportunity to continue our research by  
13 hearing from you. The detailed examination of each  
14 stage in the provisional voting process we hope can lay  
15 the foundation that each state needs to improve its  
16 system.

17           Efforts to improve provisional voting may be  
18 most effective as a part of a broader effort to  
19 strengthen voting systems. Collecting and analyzing  
20 data about those systems will enable states to  
21 identify which aspects of the registration and  
22 electoral process are most important into the

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1 provisions voting process. Responsible officials  
2 can then look to their registration system, their  
3 identification requirements, poll worker training, as  
4 ways to reduce the need for voters to cast their ballot  
5 provisionally and evaluate them consistently. Thank you  
6 and we are looking forward to our discussion.

7           MR. FOLEY: Likewise. Thank you.

8           And just one more general remark to share  
9 with you before turning it over for questions and so  
10 forth. If 2004 was a learning experience in terms of  
11 the provisional voting process. And we saw stresses  
12 imposed on that system and we were asking could the  
13 provisional voting process handle the stresses of a

14 close election and the demands put on it. I think right  
15 now, two years later in 2006 we are in an interesting  
16 situation because there has been reaction to 2004, as  
17 Tomb said. There has been new legislation.

18           Some of that new legislation has alleviated  
19 some of the stresses that were imposed onto the  
20 provisional voting system, having increased its ability  
21 to be the fail safe that HAVA and Congress spoke of.

22           But some of the legislation and some of the

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1 developments candidly put more stresses on the  
2 provisional voting system. It is possible that as we go  
3 forward in elections this Fall and in the future we  
4 will see higher rates of provisional ballots past, not  
5 lower rates more demands in terms of how to evaluate  
6 them. Some of this again is maybe good and important  
7 for understandable reasons, but as the data bases get  
8 rolled out and as there are complexities in terms of  
9 rolling out the data bases that may cause more  
10 questions to be asked about the eligibility of a  
11 registered voter. And that may cause that voter to cast  
12 a provisional ballot whereas in the past the question  
13 would not have been raised and would have cast a  
14 regular ballot.

15           Likewise in the states without the voter ID  
16 requirements those new requirements may raise questions



17 about eligibility causing more votes to be cast as  
18 provisional votes in stead of regular votes.

19           So that has created a rather interesting  
20 phenomenon and that HAVA said from a voting rights  
21 perspective, if you will, said we saw the situation in  
22 which a voter went to vote, turned up at the voting

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1 place on election day believing that they were entitled  
2 and then finding that they were purged, sometimes  
3 erroneously purged, and they were turned away. So what  
4 provisional voting was designed to do is to make sure  
5 no one was ever turned away like that. They could at  
6 least cast a provisional ballot and then we could ask  
7 questions.

8           Some of the new legislation and some of the  
9 new demands being put on the system have instead of  
10 saying this is really for the voter. They are saying  
11 this a reason to check eligible voters and therefore  
12 instead of using a provisional ballot to give the voter  
13 an opportunity so that they are not cast away we are  
14 going to use this provisional ballot so that the voter  
15 doesn't case a regular ballot. We are going to put  
16 them in the question mark category rather than the yes  
17 category which is different than putting them in the  
18 question mark category rather than the no category. But

19 as that happens more questions marks get raised so  
20 more stress gets put on the system. Thank you.

21 MS. HODGKINS: Thank you Mr. O'Neill and  
22 Professor Foley. Members of the Standards Board we

□

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1 have about 35 minutes until the end of this session  
2 for your discussion, comments. I know many of you have  
3 questions about perhaps the methodology, their  
4 conclusions maybe experiences you would like to share.  
5 I am going to be here to make sure this is an orderly  
6 process. And as you had in your previous session there  
7 are several hand held mics that are around the room.

8 If you will indicate to me that you're  
9 interested in making a statement will recognize you and  
10 then we bring a mic to you and let you speak. Please do  
11 remember to identify yourself before you start speaking  
12 Mr. Szczesniak?

13 MR. SZCZESNIAK: Yes. I guess through from  
14 the presentation I got the sense that many states as  
15 part of your survey have coworkers make the  
16 determination as to whether or not the provisional  
17 ballot was a good deal or not; is that correct, or was  
18 I misunderstanding something.

19 MR. O'NEILL: We did not mean to imply that.

20 MR. SZCZESNIAK: That's good because it  
21 didn't make any sense to me.

22 MR. FOLEY: It is after determination. And

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1 sometimes it's two after the facts that the process  
2 gets wrapped up. Sometimes it is two weeks. So there is  
3 considerable variation on how long the boards take to  
4 process the provisionals.

5 MR. O'NEILL: Another comment is many people  
6 that do put that out are the old states. But it is  
7 truly a fail safe provision and we focus that in the  
8 training of the inspectors, poll workers so they  
9 understand that nobody leaves the polling place  
10 without having had the opportunity to vote either on  
11 the machine, by court order or by provisional ballot.

12 MR. SZCZESNIAK: But many people cast a  
13 ballot thinking they are registered voters and they  
14 aren't. There is a requirement that we do not put in  
15 our poll box any inactive voters whether active or not.  
16 Many people who show up at the right place but they  
17 just can't. We give them the affidavit and we check  
18 them out and give them a chance.

19 Some reason they are not counted is that  
20 people have moved within out jurisdiction. They are in  
21 the right church and the wrong pew. They are still  
22 eligible to vote but now with the new requirement and

□

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1 because of federal lawsuits says right church wrong pew  
2 that's okay. But if they are in the wrong church they  
3 just can't be counted. So we tell them to go to the  
4 right polling place if they want to get counted.

5 MS. HODGKINS: Mr. Kennedy?

6 MR. KENNEDY: Kevin Kennedy from Wisconsin. I  
7 have a question about the methodology in the sense that  
8 you have 43 states that do not include the six states  
9 with election day registration?

10 MR. O'NEILL: That is correct, yes .

11 MS. HODGKINS: Yes, ma'am behind Al.

12 MS. ROUST: Sue Roust from South Dakota. On  
13 page eight of your handout at the top that says: "EAC  
14 should recommend to the states that they" and one of  
15 the bullet points is: " Make clear the only permissible  
16 requirement to obtain a provisional ballot is an  
17 affirmation that the voter is registered in the  
18 jurisdiction and eligible to vote in a federal  
19 election."

20 Are you saying that you feel that the EAC  
21 should recommend that on that question of do you have  
22 to be at the right precinct or you just have to be